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NEW DELHI, SATURDAY, JANUARY 6, 1989/PAUSA 16, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

विधि एवं न्याय मंत्रालय
(विधि कार्य विभाग)

सूचनाएं

नई दिल्ली, 18 दिसम्बर, 1989

का. आ. 1.—नोटरीज नियम, 1959 के नियम 6 के अनुसरण में
सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री विनोद कुमार
एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक
आवेदन इस बात के लिए दिया है कि उसे दाता रामगढ़, सीकर जिला व्यवसाय
करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस
सूचना के प्रकाशन के चौदह दिनों के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(80)/89-न्या.]

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

NOTICES

New Delhi, the 18th December, 1989

S.O. 1.—Notice is hereby given by the Competent
Authority in pursuance of rule 6 of the Notaries. 1956,

3655 GI/89—1

that application has been made to the said Authority, under
rule 4 of the said Rules, by Shri Vinod Kumar Mahlawat,
Advocate for appointment as a Notary to practise in Daulta
Ramgarh Distt. Sikar (Rajasthan).

2. Any objection to the appointment of the said person
as a Notary may be submitted in writing to the undersigned
within fourteen days of the publication of this Notice.

[No. F. 5(80)/89-Judl.]

नई दिल्ली, 19 दिसम्बर, 1989

का. आ. 2.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण
में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री विनोद कुमार
वंमल एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन
एक आवेदन इस बात के लिए दिया है कि उसे श्रीरंगपुर से उ.प्र. में व्यवसाय
करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप
इस सूचना के प्रकाशन के चौदह दिनों के भीतर लिखित रूप में मेरे
पास भेजा जाए।

[सं. 5(81) 89-न्या.]

के. एन. शर्मा, सक्षम प्राधिकारी

New Delhi, the 19th December, 1989

S.O. 2.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Shri Vipin Kumar Bansal, Advocate for appointment as a Notary to practise in Aligarh (U.P.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(81)/89-Jud.]

K. L. SARMA, Competent Authority

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 15 दिसम्बर, 1989

का. आ. 3.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नागालैण्ड राज्य सरकार की अनुमति से, निम्नलिखित अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का संपूर्ण नागालैण्ड राज्य पर विस्तार करती है:

(क) तारीख 11-3-87 को श्री ए. के. जैन, भारतीय प्रशासनिक सेवा, अपर सचिव (गृह), नागालैण्ड, पर आक्रमण करने से संबंधित कोहिमा दक्षिण पुलिस थाना, मामला संख्या 3(3)/87, तारीख 12-3-87 के विषय में भारतीय दंड संहिता 1946 (1860 का 45) की धारा 458/307/34 के अधीन दंडनीय अपराध।

(ख) ऊपर वर्णित अपराधों में से एक या अधिक अपराधों के संबंध में या उनसे सम्बन्ध प्रयत्नों, दृष्टिकोणों और पद्धतियों के और उन्हीं तथ्यों से उत्पन्न होने वाले वैसे संभवतः अपराधों के अन्वेषण में किया गया या किए गए कोई अन्य अपराध।

[संख्या 228/47/89-ए.वी.डी. II.]

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel & Training)

ORDERS

New Delhi, the 15th December, 1989

S.O. 3.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Nagaland hereby extends the powers and jurisdiction of the members of the Delhi Special Establishment to the whole of the State of Nagaland for investigation offences as hereunder:—

(a) Offences punishable under sections 458/307/34 Indian Penal Code (45 of 1860) in regard to Kohima South P.S. Case No. 3(3)87 dated 12-3-87 relating to attack on Shri A. K. Jain, IAS, Additional Secretary (Home), Nagaland on 11-3-87.

(b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/47/89-AVD.II]

का. आ. 4.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, महाराष्ट्र राज्य सरकार की सहमति से निम्नलिखित अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण महाराष्ट्र राज्य पर करती है:—

(क) श्री श्यामलाल श्रीपतिपाल निवासी थाने और उनके पुत्र राहुल को खोजने और पुत्र को उनकी माता श्रीमती माधुरी पाल निवासी, दादर, मुम्बई को सुपुर्दे करने की बाबत भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 345 और धारा 346 के साथ पठित भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 120-अ और भारतीय दंड संहिता, 1860 (1860 का 15) की धारा 345 और धारा 346 के अधीन सूक्ष्म अपराधों के लिए आर. सी. 6एम सी.बी./89/सी.बी.आई.-एन.पी.टी. मुम्बई में रजिस्ट्रीकृत मामला।

(ख) ऊपर वर्णित एक या अधिक अपराधों के संबंध में या उनसे सम्बन्ध प्रयत्नों, दृष्टिकोणों और पद्धतियों के और उन्हीं तथ्यों से उत्पन्न होने वाले वैसे संभवतः अपराधों के अन्वेषण में किया गया या किए गए कोई अन्य अपराध।

[संख्या 228/24/89-ए.वी.डी. II.]

S.O. 4.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Government of Maharashtra hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Maharashtra for investigation of offences hereunder:—

(a) Case registered under RC. 6/SCB/89-CBI, SPE. Bombay under Section 120-B of Indian Penal Code (45 of 1860) read with sections 345 and 346 of Indian Penal Code (45 of 1860) and substantive offences under sections 345 and 346 of Indian Penal Code (45 of 1860) relating to investigating the matter of tracing Shri Shyam Lal Shripati Pal residing at Thane and his son Rahul and to hand over the latter to his mother, Smt. Madhuri Pal residing at Dadar, Bombay.

(b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/24/89-AVD.II]

नई दिल्ली, 16 दिसम्बर, 1989

का. आ. 5.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उत्तर प्रदेश की राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों तथा अधिकारिता का विस्तार निम्नलिखित अपराधों के अन्वेषण के लिए संपूर्ण उत्तर प्रदेश राज्य पर करती है:—

(क) उत्तर प्रदेश राज्य के जिला हरिद्वार के पुलिस स्टेशन कोतवाली रुड़की में दर्ज दिनांक 24-11-89 के अपराध संख्या 323/89 में संबंधित मामले के बारे में भारतीय दंड संहिता की धारा 117/148/119/302 के अधीन दंडनीय अपराध।

(ख) ऊपर वर्णित अपराधों में से एक या अधिक अपराधों के संबंध में उनसे सम्बन्ध प्रयत्नों, दृष्टिकोणों और पद्धतियों तथा उन्हीं तथ्यों से उत्पन्न होने वाले वैसे ही संभवतः अपराधों के अन्वेषण में किया गया किसी अन्य अपराध या अपराधों के संबंध में।

[संख्या 228/50/89-ए.वी.डी. II.]

जी. मोताराम, अपर सचिव

New Delhi, the 16th December, 1989

8.O. 5.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Government of Uttar Pradesh, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of offences as hereunder :—

- (a) Offences punishable under section 147/148/149/302 of the Indian Penal Code (45 of 1860) in regard to case Crime No. 323/89 dated 24-11-89 registered at Police Station Kotwaly Roorkee, District Haridwar, in the State of Uttar Pradesh.
- (b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/50/89-AVD.-II]
G. SITARAMAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 15 दिसम्बर, 1989

प्रधान कार्यालय संस्थापन

का.आ. 6.—केन्द्रीय प्रत्यक्ष कर बोर्ड (कार्य का विनियमन) नियम, 1964 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्री टी. एन. पाण्डेय को जो इस समय विशेष कार्य अधिकारी (विद्यार्थी-प्रत्यक्ष कर) तथा राजस्व विभाग में पदेन विशेष सचिव के आह्वान पर कार्यरत हैं, 15 दिसम्बर, 1989 के अग्रगण्य से श्री ए. एम. थिन्ड के स्थान पर अध्यक्ष, केन्द्रीय प्रत्यक्ष कर बोर्ड नियुक्त करती है। यह नियुक्ति एक वर्ष की अवधि के लिए होगी।

2. केन्द्रीय प्रत्यक्ष कर बोर्ड के मौजूदा अध्यक्ष श्री ए. एम. थिन्ड को श्री टी. एन. पाण्डेय के स्थान पर विशेष कार्य अधिकारी (विद्यार्थी-प्रत्यक्ष कर) तथा राजस्व विभाग में पदेन विशेष सचिव (8000 रु. प्रतिमाह) नियत के रूप में नियुक्त किया गया है।

[फा. सं. ए. 19011-11-88 प्रजा.1]

अ.र. के. जिन्दल, निदेशक (प्रशासन)

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 15th December, 1989

HEADQUARTERS ESTABLISHMENT

S.O. 6.—In exercise of the powers conferred by Rule 3 of the Central Board of Direct Taxes (Regulation of

Business) Rules, 1964, the Central Government hereby appoints Shri T. N. Pandey, presently O.S.D. (Legislation-DT) with ex-officio status of Special Secretary in the Department of Revenue as the Chairman, Central Board of Direct Taxes, vice Shri A. S. Thind, with effect from the afternoon of 15th December, 1989. The appointment will be for a period of one year.

2. Shri A. S. Thind, presently Chairman, Central Board of Direct Taxes, is appointed as O.S.D. (Legislation-DT) with ex-officio status of Special Secretary in the Department of Revenue (Rs. 8,000 p.m. fixed) vice Shri T. N. Pandey.

[F. No. A. 19011/11/88-Ad.I]

R. K. JINDAL, Director (Admn.)

आदेश

नई दिल्ली, 8 दिसम्बर, 1989

स्टाम्प

का.आ. 7.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त शूलक को माफ़ करती है जो ग्रामीण विद्युतीकरण निगम, लिमिटेड द्वारा जारी किए जाने वाले दो सौ पचास करोड़ रुपये मात्र मूल्य के ऋणपत्रों के रूप में बंध पत्र, जिन्हें 9 प्रतिशत (कर मुक्त) बंधपत्र 1999 के रूप में वर्णित किया गया है पर उक्त अधिनियम के अंतर्गत प्रभावी है।

[मं. 66/89-स्टाम्प-फा. सं. 33/71/89-वि. क.]

ठाकुर दत्त, उप सचिव

ORDER

New Delhi, the 18th December, 1989

STAMPS

S.O. 7.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of debentures and described as 9 per cent (tax free) Bonds 1999 to the value of rupees Two hundred and fifty crores only to be issued by Rural Electrification Corporation Ltd. are chargeable under the said Act.

[No. 66/89-Stamps-F. No. 33/71/89-ST]

THAKUR DATT, Dy. Secy.

कार्यालय मुख्य आयकर आयुक्त (प्रशा) अहमदाबाद

अहमदाबाद, 28 नवम्बर, 1989

आयकर

का.आ. 8.—ता. 29-8-1988 को पारित का. न. उ.आ. (न्या) 4-2/88-90 संख्याक अधिसूचना द्वारा मशौधित हुए कार्यालय के ता. 1-4-88 के फा. न. उ.आ. (न्या) 4-2/88-89 संख्याक अधिसूचना को अंशतः उपान्तरित करते हुए तथा आयकर अधिनियम, 1961 के धारा 120 की उपधारा (1) एवं केन्द्रीय प्रत्यक्ष कर बोर्ड द्वारा इस बारे में जागू किये गये अधिसूचना द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मुख्य आयकर आयुक्त (प्रशा.), अहमदाबाद एतद्वारा निदेश देते हैं कि आयकर के अंतर्गत नीचे दी गई अधिसूची के स्तंभ 3 के प्रविष्टि में विनिर्दिष्ट सर्कल, वार्ड और जिला में तथा निर्धारण अधिकारी द्वारा निर्धारित किये जाने वाले सभी व्यक्ति और आय के संदर्भ में अधिसूची के स्तंभ-2 में उल्लिखित रेट के उप आयुक्त (ग्रामीण) अपने कर्तव्यों का पालन करेंगे।

घनसूची

क्रमांक	उप आयुक्त का क्षेत्र	निम्नलिखित प्रा. पात्रित परियों के विरुद्ध परियों पर अधिकारिता
1	2	3
1.	उप आयुक्त आयुक्त (अपील), अहमदाबाद रेंज-1, अहमदाबाद	<p>(1) स. प्रा. अ. के सभी सर्कल/अनुसंधान सर्कल और आयुक्त अधिकारी के सभी वार्ड (पाटण और महेसाणा के वार्ड भी सम्मिलित हैं) जो निम्नलिखित उप प्रा. अ. के रेंज की अधिकारिता के अंतर्गत पड़ते हैं:</p> <p>(1) उप प्रा. अ. रेंज-1, अहमदाबाद</p> <p>(2) उप प्रा. अ. रेंज-5, अहमदाबाद</p> <p>(3) उप प्रा. अ. रेंज-7, अहमदाबाद</p> <p>(2) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयुक्त अधिकारी के सभी वार्ड/सर्कल जो 1-4-88 से पहले विद्यमान थे:</p> <p>(1) सर्कल - 1, अहमदाबाद</p> <p>(2) सर्कल - 5, अहमदाबाद</p> <p>(3) पाटण सर्कल, पाटण</p> <p>(4) महेसाणा सर्कल, महेसाणा</p> <p>(5) कम्पटी सर्कल - 1 (1), अहमदाबाद</p> <p>(6) " " - 1 (2), अहमदाबाद</p> <p>(7) " " - 1 (3), अहमदाबाद</p> <p>(8) " " - 1 (4), अहमदाबाद</p> <p>(9) " " - 1 (5), अहमदाबाद</p> <p>(10) " " - 1 (6), अहमदाबाद</p> <p>(11) " " - 1 (7), अहमदाबाद</p> <p>(12) " " - 1 (8), अहमदाबाद</p> <p>(13) अनिवासी सर्कल, अहमदाबाद</p> <p>(14) सर्वेक्षण सर्कल, अहमदाबाद</p> <p>(3) ऊपर के पत्र (2) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पत्रास 1-4-1988 से बदले गये।</p> <p>(4) आयुक्त आयुक्त, गुजरात-1, अहमदाबाद के अधिकारिता के अंतर्गत पड़ने वाले कोई भी सर्कल/वार्ड जिसे इस आदेश के अधीन अन्य किसी उप आयुक्त आयुक्त (अपील) को समन्वित नहीं किया गया हो।</p> <p>(5) अहमदाबाद में कार्यरत सभी सहायक आयुक्त निदेशक (अनु-संधान) और आयुक्त अधिकारी (सर्वेक्षण एवं केन्द्रीय अनुसंधान आयोग)।</p>
2.	उप आयुक्त आयुक्त (अपील), अहमदाबाद रेंज-2, अहमदाबाद	<p>(1) सहायक आयुक्त आयुक्त के सभी सर्कल/अनुसंधान सर्कल और आयुक्त अधिकारी के सभी वार्ड (सुरेन्द्रनगर और सम्पदा शुल्क के वार्ड भी सम्मिलित हैं) जो निम्नलिखित उप प्रा. अ. के रेंज की अधिकारिता के अंतर्गत पड़ते हैं:</p> <p>(1) उप प्रा. आयुक्त, केन्द्रीय रेंज-1, अहमदाबाद</p> <p>(2) उप प्रा. आयुक्त, केन्द्रीय रेंज-2, अहमदाबाद</p> <p>(3) उप प्रा. आयुक्त, केन्द्रीय रेंज-6, अहमदाबाद</p> <p>(2) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयुक्त अधिकारी के सभी वार्ड/सर्कल जो 1-4-88 से पहले विद्यमान थे:</p> <p>(1) केन्द्रीय सर्कल, अहमदाबाद</p> <p>(2) बुनिक सर्कल, अहमदाबाद</p> <p>(3) सुरेन्द्रनगर सर्कल, सुरेन्द्रनगर</p> <p>(4) सम्पदा शुल्क एवं आयुक्त सर्कल, अहमदाबाद</p> <p>(3) ऊपर के पत्र (2) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पत्रास 1-4-88 से बदले गये।</p> <p>(4) आयुक्त आयुक्त, गुजरात-3, अहमदाबाद के अधिकारिता के अंतर्गत पड़ने वाले कोई भी सर्कल/वार्ड जिसे इस आदेश के अधीन अन्य किसी उप प्रा. अ. (अपील) को समन्वित नहीं किया गया हो।</p>

1	2	3
3	उप आयकर आयुक्त (अधीन), अहमदाबाद रेंज-3, अहमदाबाद	(1) स. आ. आ. के सभी सर्कल/अनुसंधान सर्कल और आयकर अधिकारी के सभी वार्ड (पालनपुर) के वार्ड भी सम्मिलित हैं। जो उ. आ. आ. रेंज-3 की अधिकारिता के अंतर्गत पड़ते हैं। (2) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयकर अधिकारी के सभी वार्ड/सर्कल जो 1-4-88 से पहले विद्यमान थे : (1) सर्कल-3, अहमदाबाद (2) विशेष सर्कल, अहमदाबाद (3) विशेष (अनुसंधान) सर्कल, अहमदाबाद (4) पालनपुर सर्कल, पालनपुर (3) ऊपर के मद्र (2) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पदनाम 1-4-88 से बदले गये।
4	उप आयकर आयुक्त (अधीन), अहमदाबाद रेंज-1, अहमदाबाद	(1) स. आ. आ. के सभी सर्कल/अनुसंधान सर्कल और आयकर अधिकारी के सभी वार्ड जो निम्नलिखित उ. आ. आ. के रेंज की अधिकारिता के अंतर्गत पड़ते हैं : (1) उ. आ. आ. रेंज-1, अहमदाबाद (2) उ. आ. आ. रेंज-8, अहमदाबाद (2) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयकर अधिकारी के सभी वार्ड/सर्कल जो 1-4-88 से पहले विद्यमान थे : (1) सर्कल-4, अहमदाबाद (2) सर्कल-6, अहमदाबाद (3) सर्कल-8, अहमदाबाद (3) ऊपर के मद्र (2) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पदनाम 1-4-88 से बदले गये।
5	अनुसूची की प्रविष्टि-5 को हटा दिया जाता है।	
6	उप आयकर आयुक्त (अधीन), अहमदाबाद रेंज-6, अहमदाबाद	(1) स. आ. आ. के सभी सर्कल/अनुसंधान सर्कल और आयकर अधिकारी के सभी वार्ड (हिम्मतनगर और मोडामा के वार्ड भी सम्मिलित हैं) जो निम्नलिखित उ. आ. आ. के रेंज की अधिकारिता के अंतर्गत पड़ते हैं : (1) उ. आ. आयुक्त रेंज-2, अहमदाबाद (2) उ. आ. आयुक्त रेंज-9, अहमदाबाद (2) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयकर अधिकारी के सभी वार्ड/सर्कल जो 1-4-88 से पहले विद्यमान थे : (1) सर्कल-2, अहमदाबाद (2) कम्पनी सर्कल-2, (1), अहमदाबाद (3) " " -2 (2), अहमदाबाद (4) " " -2 (3), अहमदाबाद (5) " " -2 (4), अहमदाबाद (6) " " -2 (5), अहमदाबाद (7) हिम्मतनगर सर्कल, हिम्मतनगर (8) मोडामा सर्कल, मोडामा (3) ऊपर के मद्र (2) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पदनाम 1-4-88 से बदले गये। (4) आयकर आयुक्त, गुजरात-2, अहमदाबाद के अधिकारिता के अंतर्गत पड़ने वाले कोई भी सर्कल/वार्ड जिसे आदेश के अंतर्गत अन्य किसी उ. आ. आ. (अधीन) को समनुदिष्ट नहीं किया गया है।
7	अनुसूची की प्रविष्टि-7 को हटा दिया जाता है।	

2. यह अधिसूचना 1-2-89 से प्रभावी होगी।

[फा. सं. ड. आ /मुद्रा - 1/2(न्याय) 1/2/89-90]
आर. पी. वर्मा, मुख्य आयकर आयुक्त (प्रशासन)

OFFICE OF THE
CHIEF COMMISSIONER OF INCOME-TAX (ADMINISTRATION)
GUJARAT

AHMEDABAD, the 28th November, 1989

(INCOME-TAX)

S.O. 8.—In partial modification of this office Notification F.No.D.C. (Jud.)/IV-2/88-89 dated 1/4/1988, as modified by the Notification F.No.D.C. (Jud.)/IV-2/88-89 dated 29th August 1988 and in exercise of the powers conferred by sub-section (1) of Section 120 of the Income Tax Act 1961 and the Notification issued by the Central Board of Direct Taxes in this behalf, the Chief Commissioner of Income-tax (Administration) Ahmedabad hereby directs that the Deputy Commissioners of Income-tax (Appeals) of the Range specified in Column 2 of the Schedule below shall perform their functions in respect of all persons and incomes assessed to Income-tax under the Circles, Wards and Districts and by the Assessing Officers specified against the entry in Column 3 thereof, excluding all persons assessed to Income-tax over which the jurisdiction vests in the Commissioners of Income-tax (Appeals).

SCHEDULE

Sr. No.	Range of the Dy. Commissioner	Jurisdiction over appeals against orders passed by
(1)	(2)	(3)
1.	Deputy Commissioner of Income-tax (Appeals) Ahmedabad Range-1, Ahmedabad.	<p>(1) All Circles/Investigation Circles of Assistant Commissioners of Income Tax and all Wards of Income Tax Officers (including those at Mehsana and Patan) falling within the jurisdiction of the following Ranges of Deputy Commissioners of Income Tax :</p> <p>(i) Deputy Commissioner of Income-tax, Range-1, Ahmedabad.</p> <p>(ii) Deputy Commissioner of Income-tax, Range-5, Ahmedabad.</p> <p>(iii) Deputy Commissioner of Income-tax, Range-7, Ahmedabad.</p> <p>(2) All Wards/Circles of Income-tax officers as existing prior to 1/4/1988 comprising in the following Circles :</p> <p>(i) Circle-I, Ahmedabad.</p> <p>(ii) Circle-V, Ahmedabad.</p> <p>(iii) Patan Circle, Patan.</p> <p>(iv) Mehsana Circle, Mehsana.</p> <p>(v) Company Circle-I(1) Ahmedabad.</p> <p>(vi) Company Circle-I(2), Ahmedabad.</p> <p>(vii) Company Circle-I(3), Ahmedabad.</p> <p>(viii) Company Circle-I(4), Ahmedabad.</p> <p>(ix) Company Circle-I(5), Ahmedabad.</p> <p>(x) Company Circle-I(6), Ahmedabad.</p> <p>(xi) Company Circle-I(7), Ahmedabad.</p> <p>(xii) Company Circle-I(8), Ahmedabad.</p> <p>(xiii) Non-Resident Circle, Ahmedabad.</p> <p>(xiv) Survey Circles, Ahmedabad.</p> <p>(3) All Assessing Officers of the Wards Circles comprising in item(2) above as redesignated with effect from 1/4/1988.</p> <p>(4) Any Circles/Wards falling within the jurisdiction of the Commissioner of Income Tax, Gujarat-I, Ahmedabad not specifically assigned to any other Deputy Commissioner of Income Tax (Appeals) under the order.</p> <p>(5) All Assistant Directors of Income Tax (Investigation and Income Tax Officers (Survey cum C.I.B.) stationed at Ahmedabad.</p>
2.	Dy. Commissioner of Income-tax (Appeals) Ahmedabad Range-2, Ahmedabad.	<p>(1) All Circles/Investigation Circles of Assistant Commissioners of Income Tax and all Wards of Income Tax Officers (including those at Surendranagar and including Estate Duty Circle) falling within the following Ranges of Deputy Commissioners of Income Tax.</p> <p>(i) Deputy Commissioner of Income-Tax, Central Range 1, Ahmedabad.</p> <p>(ii) Deputy Commissioner of Income Tax, Central Range 2, Ahmedabad.</p> <p>(iii) Deputy Commissioner of Income Tax, Range-6, Ahmedabad.</p> <p>(2) All Wards/Circles of Income Tax Officers as existing prior to 1/4/1988 comprising in the following Circles :—</p> <p>(i) Central Circles, Ahmedabad.</p> <p>(ii) Professional Circle, Ahmedabad.</p> <p>(iii) Surendranagar Circle, Surendranagar.</p> <p>(iv) Estate Duty-cum-Income Tax Circle, Ahmedabad.</p>

(1)	(2)	(3)
		<p>(3) All Assessing Officers of the Wards/Circles comprising in item (2) above as redesignated with effect from 1-4-1988.</p> <p>(4) Any Circles/Wards falling within the jurisdiction of the Commissioner of Income Tax, Gujarat-III, Ahmedabad not specifically assigned to any other Deputy Commissioner of Income-tax (Appeals) under this order.</p>
3. Dy. Commissioner of Income-tax (Appeals), Ahmedabad Range-3, Ahmedabad.		<p>(1) All Circles/Investigation Circles of Assistant Commissioners of Income Tax and all Wards of Income Tax Officers (including those at Palanpur) falling within the jurisdiction of the Deputy Commissioner of Income Tax, Range-3, Ahmedabad.</p> <p>(2) All Wards/Circles of Income Tax Officers as existing prior to 1-4-1978 comprising in the following Circles :—</p> <p>(i) Circle-III, Ahmedabad.</p> <p>(ii) Special Circles, Ahmedabad.</p> <p>(iii) Special (Investigation) Circles, Ahmedabad.</p> <p>(iv) Palanpur Circle, Palanpur.</p> <p>(3) All Assessing Officers of the Wards/Circles comprising in item (2) above as redesignated with effect from 1-4-1988.</p>
4. Dy. Commissioner of Income-tax (Appeals) Ahmedabad Range-4, Ahmedabad.		<p>(1) All Circles/Investigation Circles of Assistant-Commissioners of Income Tax and all Wards of Income Tax Officers falling within the jurisdiction of the following Ranges of Deputy Commissioners of Income Tax :</p> <p>(i) Deputy Commissioner of Income Tax, Range-4, Ahmedabad.</p> <p>(ii) Deputy Commissioner of Income Tax, Range-8, Ahmedabad.</p> <p>(2) All Wards/Circles of Income Tax Officers as existing prior to 1-4-1988 comprising in the following Circles :—</p> <p>(i) Circle-IV, Ahmedabad.</p> <p>(ii) Circle-VI, Ahmedabad.</p> <p>(iii) Circle-VIII, Ahmedabad.</p> <p>(3) All Assessing Officers of the Wards/Circles comprising in item (2) above as redesignated with effect from 1-4-1988.</p>
5. Entry 5 of the Schedule shall stand deleted.		
6. Dy. Commissioner of Income Tax (Appeals) Ahmedabad Range-6, Ahmedabad.		<p>(1) All Circles/Investigation Circles of Assistant Commissioners of Income Tax and all Wards of Income Tax Officers (including those at Himatnagar and Modasa) falling within the jurisdiction of the following Ranges of Deputy Commissioners of Income Tax :</p> <p>(i) Deputy Commissioner of Income-tax, Range-2, Ahmedabad.</p> <p>(ii) Deputy Commissioner of Income-tax, Range 7, Ahmedabad.</p> <p>(2) All Wards/Circles of Income Tax Officers as existing prior to 1-4-1988 comprising in the following Circles :</p> <p>(i) Circle-II, Ahmedabad,</p> <p>(ii) Company Circle-II(1), Ahmedabad,</p> <p>(iii) Company Circle-II(2), Ahmedabad,</p> <p>(iv) Company Circle-II(3), Ahmedabad,</p> <p>(v) Company Circle-II(4), Ahmedabad,</p> <p>(vi) Company Circle-II(5), Ahmedabad,</p> <p>(vii) Himatnagar Circle, Himatnagar.</p> <p>(viii) Modasa Circle, Modasa.</p> <p>(3) All Assessing Officers of the Wards/Circles comprising in item (2) above as redesignated with effect from 1-4-1988.</p> <p>(4) Any Circles/Wards falling within the jurisdiction of the Commissioner of Income-tax, Gujarat-II, Ahmedabad not specifically assigned to any other Deputy Commissioner of Income-tax (Appeals) under this order.</p>

7. Entry 7 of the schedule shall stand deleted.

2. This Notification shall come into force with effect from 1-12-1989.

[F. No. DC/HQ.I/II(Judl) /IV-2/89-90]
R.C. VERMA, Chief Commissioner of Income-tax
(Administration)

विदेश मंत्रालय

नई दिल्ली, 22 दिसम्बर, 1989

का. आ. 9.—हज समिति नियमावली, 1963 के नियम 6(1) (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार लोक न्याय भंग हो जाने के कारण, एम्बेडगर उन पदों को रिक्त घोषित करती है जिन पर सर्वश्री हुसैन दलवाई और शफीज मोहम्मद सिद्दिकी कार्यरत थे। इन दोनों की नियुक्ति 15 फरवरी, 1989 की अधिसूचना सं. एम (हज) 118-1/2/89 की तहत की गई थी।

[सं. एम (हज)/118-1/2/89]

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 22nd December, 1989

S.O. 9.—In exercise of the powers conferred by rule 6(1)(a) of the Haj Committee Rules, 1963 the Government of India hereby declare vacant, due to the dissolution of the Lok Sabha, the seat held by Shri Hussain Dalwai and the seat held by Shri Hafiz Mohd. Siddique both appointed under notification No. M(Haj) 118-1/2/89 dated February 15, 1989.

[No. M(Haj) 118-1/2/89]

का.आ. 10.—हज समिति नियमावली, 1963 के नियम 17(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार, मेघालय के राज्य-पाल के पद पर नियुक्ति के परिणामस्वरूप समिति की सदस्यता से त्यागपत्र देने के कारण श्री ए.ए. रहीम द्वारा धारित पद को रिक्त घोषित करती है। उन्हें 15-2-89 की अधिसूचना सं. एम (हज) 118-1/2/89 के तहत हज समिति का सदस्य नामित किया गया था।

[सं. एम (हज)/118-1/2/89]

के. पी. फ़ैबियन, संयुक्त सचिव (जीडी/हज)

S.O. 10.—In exercise of the powers conferred by rule 7(1) of the Haj Committee Rules 1963 the Government of India hereby declare vacant the seat held by Shri A. A. Rahim following his resignation from the membership of the Committee consequent upon his appointment as Governor of Meghalaya. He was nominated member of Haj Committee vide Notification No. M(Haj) 118-1/2/89 dated 15-2-89.

[No. M(Haj) 118-1/2/89]

K. P. FABIAN, Jt. Secy. (G D /Haj)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 15 दिसम्बर, 1989

का. आ. 11.—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में डा. जे. ए. जी. से दहेज-जी.जी.एम. तक पेट्रोलियम के परिवहन के लिये वाइपलाइन लेन तथा प्राकृतिक गैस आयोजन द्वारा बचाई जानी चाहिये।

और, यतः यह प्रतीत होता है कि किसी लाइन को बिछाने के प्रयोजन के लिए एम्बेडगर अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब, पेट्रोलियम और खनिज वाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आणख एम्बेडगर घोषित किया है।

बताने कि उक्त भूमि में एम्बेडगर वर्ग अर्जित, उस भूमि के लिये पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी लेन तथा प्राकृतिक गैस आयोजन, निर्माण और रखरखाव प्रभाग, मुम्बई-40 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने बताने हर व्यक्ति अतिरिक्त, यह भी करने बताने कि क्या वह यह चाहता है कि उसकी सुनवाई अतिरिक्त रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

डा. जे. ए. जी. से दहेज जी.जी.एम. तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात	जिला : भारुच	तालुका : वापरा	गांव	ब्लॉक नं.	हे.	आर.	सेंटी
			कोलीआद	175	0	08	32
				138	0	05	20
				185	0	31	20
				186	0	16	64
				183A	0	20	80
				183B	0	30	03

[सं. ओ-11027/164/89-ओ. एन. जी. डी. III]

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 15th December, 1989

S.O. 11.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from DJAG to Dahej-GGS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that from the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM DJAG TO DAHEJ GGS.

State : Gujarat	District : Bharuch	Taluka : Vapra	Village	Block No.	Hectare	Are	Centiare
			KOLIAD	175	0	08	32
				138	0	05	20
				185	0	31	20
				183A	0	20	80
				183B	0	30	03
				186	0	16	64

[No. O-11027/164/89/ON.G.D.III]

का. आ. 12.—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में डा. जे. ए. जी. से दहेज-जी.जी.एम. तक पेट्रोलियम के परिवहन के लिये वाइपलाइन लेन तथा प्राकृतिक गैस आयोजन द्वारा बचाई जानी चाहिये।

और, यतः यह प्रतीत होता है कि किसी लाइन को बिछाने के प्रयोजन के लिए एम्बेडगर अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जन करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड़, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी बताना करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी निधि व्यवसायी की मार्फत।

अनुसूची

जो एन डी एच. से ए. पी. एस. तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : भरुच ताल्लुका : पगारा

गांव	ब्लॉक नं.	हे.	आर.	सेंटीर
संधार	322/A-बी	2	04	85

[नं. ओ-11027/166/89-ओ एन जी डी-III]

S.O. 12.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNDH to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM GNDH TO E.P.S.

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hectare	Area	Centiare
Gandhar	322/A-B	2	04	88

[No. O-11027/166/89/O.N.G.D-III]

नं. अ. 13.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन ए अर्जी से ए पी एस तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

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और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपरोक्त अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जन करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जन करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड़, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी बताना करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी निधि व्यवसायी की मार्फत।

अनुसूची

जो एन. ए. आई से ए. पी. एस. तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : भरुच ताल्लुका : वागरा

गांव	ब्लॉक नं.	हे.	आर.	सेंटी.
मुलेर	1	0	39	52

[नं. ओ-11027/163/89-ओ एन जी डी-III]

S.O. 13.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNAI to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM GNAI TO EPS

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hectare	Area	Centiare
Muller	1	0	39	52

[N.O.-11027/163/89/O.N.G.D-III]

का. अ. 14.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन बी इ से जी एन ए एक्टिंग पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस लाइन द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एन्डोवाइड अन्वृत्ति में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्वारा घोषित किया है।

वर्णन कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ीदा-9 को इस अधिवृत्ति की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की माफ़त।

अनुसूची

जी. एन. बी. इ से जी एन ए एफ तक पाईप लाईन बिछाने के लिए।
राज्य: गुजरात जिला: भरुच तालुका: आमोद

ग्राम	ब्लॉक नं.	हे.	आर.	सेंटी.
वर्नाचोर	170	0	28	57
	177	0	01	94
	175	0	14	43
	174	0	05	59
	159	0	23	14
	131	0	02	53
	130	0	03	12
	129	0	05	07
	127	0	20	15
	91	0	27	62
	98	0	31	74
	102	0	00	31
	103	0	00	93
	104	0	08	65

[मं. अ. 11027/168/89 ओ. एन. डी. डी. -III]

S.O. 14.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNBE to GNAF in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction

and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM GNBE TO GNAF

State : Gujarat District : Bharuch Taluka : Amod

Village	Block No.	Hectare	Are	Centiare
VALIPUR	170	0	28	57
	177	0	01	74
	175	0	14	43
	174	0	05	57
	157	0	23	14
	131	0	02	53
	130	0	03	12
	129	0	05	07
	127	0	20	15
	71	0	27	62
	78	0	31	74
	102	0	00	31
	131	0	00	93
	104	0	08	65

[No. O-11027/168/89/O.N.G. D-III]

का. अ. 15.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रेता-1 से नाडा-1 तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस लाइन द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एन्डोवाइड अन्वृत्ति में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्वारा घोषित किया है।

वर्णन कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ीदा-9, को इस अधिवृत्ति की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की माफ़त।

अनुसूची

रेता-1 से नाडा-1 तक पाईप लाईन बिछाने के लिए।

राज्य: गुजरात जिला: भरुच तालुका: अमोद

ग्राम	ब्लॉक नं.	हे.	आर.	सेंटी.
नाडा	1570	0	01	16
	1559	0	25	09
	1538	0	02	08
	1557	0	32	21
	1566	0	05	20

1	2	3	4	5
	1640	0	14	95
	1610	0	15	08
	1610	0	05	59
	1400	0	07	28
	1101	0	00	52
	1103	0	03	84
	1561	0	04	84
	1561	0	18	52
	1562	0	05	72
	1560	0	07	28
	1559	0	12	48
	1528	0	11	11
	1530	0	03	84
	1529	0	00	12

[स. सं. 11027/170/89-आ.एन.ओ. डी-III]

S.O. 15.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from RENA-1 to NADA-1 in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM RENA-1 TO NADA-1

State : Gujarat District : Bharuch Taluha : Jamsar

Village	Block No.	Hectare	Area	Centiare
NADA	1570	0	04	16
	1569	0	28	08
	1568	0	02	08
	1567	0	32	24
	1566	0	05	20
	1640	0	14	95
	1640	0	15	08
	1640	0	05	59
	1400	0	07	28
	1401	0	00	52
	1403	0	03	84
	1564	0	03	84
	1564	0	18	52
	1562	0	05	72
	1560	0	07	28
	1559	0	12	48
	1528	0	11	44
	1530	0	03	84
	1529	0	00	12

[No. O-11027/170/89/ONG. D-III]

का.सं. 16—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी.एन.बी.ई. में जी.एन.ए.ए. एक. तक पेट्रोपिपेस के परिवहन के लिये पाईप लाईन तैयार तथा प्राकृतिक गैस आयोग द्वारा विद्यार्थ आनी चाहिए।

और यह: यह प्रतीत होता है कि ऐसी लाईनों को विद्यार्थ के प्रयोजन के लिए एन.ए.ए.ए. अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रदान करना आवश्यक है।

अतः अब पेट्रोपिपेस और खनिज पाईपलाइन (अभि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 को आधार (1) द्वारा प्रस्ताव शक्तियों का प्रयोग करने द्वारा केन्द्रीय सरकार उगमें उपयोग का अधिकार प्रदान करने का अपना आशय एन.ए.ए. घोषित किया है।

वर्षों कि उक्त भूमि में हिमबद्ध कोई व्यक्ति, उस भूमि के लिये पाईप लाईन विद्यार्थ के लिए आशय सक्षम प्राधिकारी तैयार तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, तकरपुरा रोड बड़ीदा-9, को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकना।

और ऐसा आशय करी वाला हर व्यक्ति विवेक-पूर्वक यह भी कथन करेगा कि क्या यह बड़ा चाहता है कि उसकी भूमि-दाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जी.एन.बी.ई. में जी.एन.ए. एक. तक पाईप लाईन विद्यार्थ के लिए।

राज्य—गुजरात जिला—भरुच तालुका—जामोद

सद	आकृ.नं.	है.	आर.	सेन्टी
1	2	3	4	5
देववा	763	0	21	90
	764	0	04	20
	765	0	06	58
	736	0	46	15
	737	0	01	00
	731	0	19	77
	626	0	00	25
	625	0	09	08
	624	0	05	98
	623	0	14	17
	621	0	02	60
	620	0	04	29
	619	0	07	80
	618	0	10	40
	617	0	00	30
	616	0	07	28
	615	0	07	38
	588	0	04	94
	587	0	02	34
	586	0	01	22
	585	0	03	38
	584	0	08	06
	544	0	19	76
	533	0	05	20
	545	0	19	24
	546	0	00	14

1	2	3	4	5
	536	0	03	87
	547	0	07	80
	528	0	18	07
	527	0	12	66
	513	0	03	20

[सं. प्रो.-11027/167/89/प्रो. एन. गै. डी-III]

S.O. 16.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNBE to GNAF in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

PIPELINE FROM GNBE TO GNAF

State : Gujarat District : Bharuch Taluqa : Amod

Village	Block No.	Hectare	Are	Centiare
1	2	3	4	5
DENWA	763	0	21	90
	764	0	04	20
	765	0	06	58
	736	0	46	15
	737	0	01	00
	731	0	19	77
	626	0	00	25
	625	0	09	08
	624	0	05	98
	623	0	14	17
	621	0	02	60
	620	0	04	29
	619	0	07	80
	618	0	10	40
	617	0	00	30
	616	0	07	28
	615	0	07	38
	588	0	04	94
	587	0	02	34
	586	0	04	22
	585	0	03	38
	584	0	08	06
	544	0	19	76
	583	0	05	20
	545	0	19	24
	546	0	09	14

1	2	3	4	5
	536	0	03	87
	547	0	07	80
	528	0	18	07
	527	0	12	66
	513	0	03	20

[No.O-11027/167/89 O.N.G. D.III]

का.प्रो. 17.—यतः केन्द्रीय सरकार का यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी.एन.एस.एस. में जो एन.डी.डी. (एस.जी-2) तक पेट्रोलियम के परिवहन के निम्ने पारिषदाईन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जाता चाहिए।

और यतः यह प्रतीत होता है कि ऐसी कार्रवाई का विफल के प्रयोजन के लिए एन.एस.एस. अनुमति में वर्णित भूमि में उपयोग के अधिकारा अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पारिषदाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा पवन अधिकारों का प्रयास करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एन.एस.एस. घोषित किया है।

वर्णित कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पारिषदाईन विधान के लिए आक्षेप मक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और रखरखाव प्रभाग, माकपुरा रोड वडोदा-9, का इस अधिसूचना का जारी होने से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चित यह भी कहना होगा कि क्या यह वह चाहता है कि उसकी अनुमति व्यक्तिगत रूप से हो या किसी विशिष्ट व्यवसायी की मार्फत।

अनुसूची

जी.एन.एस.एस. से जी.एस. बी.डी. (एस.जी-2) तक पारिषदाईन विधान के लिए।

राज्य—गुजरात जिला—भरुच तालुका—वागरा

गाँव	ब्लॉक नं.	है.	आर.	सेंटी
दादर	58 पी	0	36	16

[सं. प्रो.-11027/171/89/प्रो.एन.जी.डी.-III]

S.O. 17.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNAS to GNBD (SB-2) in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

PIPELINE FROM GNAS TO GNBD (SG.2)

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hectare	Area	Centiare
Aladar	56/P	0	36	16

[No. O-11027/171/89-O. N. G. D.-III]

का.आ. 18 :—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन डी जी से ई पी एम तक पेट्रोलियम के परिवहन के लिये पाईपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्भावद अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अथ पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पाईप लाइन बिछाने के लिए आक्षेप सज्जम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपूरा रोड, बड़ीदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सूचनाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की माफ़त।

अनुसूची

जी.एन.डी.जी. से ई.पी.एम. तक पाईप लाइन बिछाने के लिए।

राज्य—गुजरात जिला—भरुच तालुका—वागरा

गांव	ब्लॉक नं.	है.	आर.	सेंटी
चांचवेल	281	0	17	68
	282	0	64	48
	284	01	64	32

[सं. ओ-11027/172/89-ओ. एन. जी. डी.-III]

S.O. 18.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNDG to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to

the laying of the pipeline under the land to the Competent Authority. Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

PIPELINE FROM GNDG TO E.P.S.

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hectare	Area	Centiare
Chanchwel	281	0	17	68
	282	0	64	48
	284	1	64	32

[No. O-11027/172/89/O.N.G.D.III]

का.आ. 19 :—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन डी एच से ई पी एम तक पेट्रोलियम के परिवहन के लिये पाईपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्भावद अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अथ पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पाईप लाइन बिछाने के लिये आक्षेप सज्जम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपूरा रोड, बड़ीदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सूचनाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की माफ़त।

अनुसूची

जी.एन.डी.एच. से ई.पी.एम. तक पाईप लाइन बिछाने के लिए।

राज्य—गुजरात जिला—भरुच तालुका—वागरा

गांव	ब्लॉक नं.	है.	आर.	सेंटी
मुंकेर	63	0	63	44

[सं. ओ-11027/173/89-ओ. एन. जी. डी.-III]

S.O. 19.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNDG to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and

Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

PIPELINE FROM GNDH TO E.P.S.

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hectare Area Centiare		
Muller	63	0	63	44

[N. O-11027/173/89/O.N.G.D.III]

का.प्र. 20:—यसः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन डी एक्स ने ईपी एस तक पेट्रोलियम के परिवहन के लिये पार्लम्लार्डन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी ज़रूरतों को विचारने के प्रयोजन के लिए एन.ए.ए.डी. भूमि में उपयोग का अधिकार अर्जित करने आवश्यक है।

अतः इस पेट्रोलियम और खनिज पार्लम्लार्डन (भूमि में उपयोग के अधिकार का अर्थ) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना सामान्य एन.ए.ए.डी. घोषित किया है।

बतर्त कि उक्त भूमि में हिनबद कोई व्यक्ति, उस भूमि के नीचे पार्लम्लार्डन बिछाने के लिए आवश्यक नज़म प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9, को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेंगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि अप्रमयी को मार्फत।

धनुसूची

जी एन डी एक्स से ईपी एस तक पार्लम्लार्डन बिछाने के लिए।

राज्य—गुजरात जिला—भरुच तालुका—वाग्रा

प्रधर	321	0	31	20
	322/ए.बी	0	97	76

[सं. ओ-11027/162/89-ओ. एन. जी. डी.-III]

S.O. 20.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNDX to EPS in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquired that right of user in the land described in the schedule annexed hereto:—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and

Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

PIPELINE FROM GNDH TO E.P.S.

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hectare Area Centiare		
Gandhar	321	0	31	20
	322/A-B	0	97	76

[N. O-11027/162/89 O.N.G.D.III]

का.प्र. 21 :—यत पेट्रोलियम और खनिज पार्लम्लार्डन भूमि में उपयोग के अधिकार का अर्थ अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अर्हत भारत सरकार के पेट्रोलियम और प्राकृतिक गैस संवर्धन की अधिसूचना का.प्र. 21/32 तारीख 9-9-89 द्वारा केन्द्रीय सरकार ने इस अधिसूचना में गलत अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार का पार्लम्लार्डन को बिछाने के लिए अर्जित करने का अपना सामान्य घोषित कर दिया था।

और यतः भारत प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अर्हत सरकार का रिपोर्ट दे दी है।

और आगे, यत केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में गलत अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अतः, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करत हुए केन्द्रीय सरकार एन.ए.ए.डी. घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पार्लम्लार्डन बिछाने के लिए एन.ए.ए.डी. अर्जित किया जाता है।

और आगे इस धारा की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निश्चय करती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगी।

धनुसूची

एन.ए.डी. जेड. से एन.एस. जी.जी.एस. तक पार्लम्लार्डन बिछाने के लिए

राज्य : गुजरात	जिला : मेहसाणा	तालुका : मेहसाणा		
गांव	सर्वे. न.	हेक्टेयर	आर.	सेंटीयर
बलोच	1795	0	17	04
	1796	0	08	61
	1789	0	06	60
	1787	0	01	32
	1786	0	04	44
	1785	0	08	88
	1781/2	0	01	08
	1782	0	13	08

[सं. ओ-11027/53/89-ओ. एन. जी. डी.-III]

S.O. 21.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 2132 dated 9-9-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vest on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

PIPELINE FROM SNDZ TO NS GGS

State : Gujarat District : Mehsana Taluka : Mehsana

Village	Survey No.	Hectare	Area	Centiare
Balsi	1735	0	17	04
	1796	0	03	64
	1739	0	06	60
	1787	0	01	32
	1786	0	04	44
	1785	0	08	88
	1781/2	0	01	68
	1782	0	13	08

[N.O-11027/88/Sz-ONGD.III]

का.आ. 22.—यहां पेद्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अर्थात् भारत सरकार के पेद्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ.सं. 2344 तारीख 23-9-89 द्वारा केन्द्रीय सरकार ने उक्त अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना प्राण्य घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और अतः, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनियमन किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा घोषित करती है कि इन अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और अतः उक्त अधिनियम की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और

प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

ग्रामों से धुवरान तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात

जिला : खेड़ा

तालुका : बीरसद

गांव	सर्वे. नं.	ए.	घ.	भार.	सेन्टीयर
करमापुरा	458/1/पी	0	12	60	
	458/1/पी	0	06	80	
	450/1	0	09	90	

[सं. ओ.-11027/89/88-ओ.एन.जी.सी-III]

S.O. 22.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2344 dated 23-9-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

PIPELINE FROM GANDHAR TO DHUWARAN

State : Gujarat District : Kheda Taluka : Borsad

Village	Survey No.	Hectare	Area	Centiare
Kankapura	458/1/P	0	12	60
	458/1/P	0	06	80
	450/1	0	09	90

[N.O-11027/89/88/O.N.G.D.III]

का.आ. 23.—यहां पेद्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अर्थात् भारत सरकार के पेद्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ.सं. 2151 तारीख 9-9-89 द्वारा केन्द्रीय सरकार ने उक्त अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना प्राण्य घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और अतः, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनियमन किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

बी.एल.एच.आई से कलोल जी.जी.एस. तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात	जिला : मेहसाणा	तालुका : मेहसाणा		
गांव	सर्वे. नं.	हेक्टेयर आर.	सेंटी. आर.	
बलोल	916	0	11	04
	899	0	01	32

[सं. ओ.-11027/59/89-ओ. एन. जी. डी.-III]

S.O. 23.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2151 dated 9-9-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification:

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

PIPELINE FROM BLHY TO BALOL GGS

State : Gujarat Dist : Mehsana Taluka : Mehsana

Village	Survey No.	Hec.	Area	Cent are
Balol	816	0	11	01
	899	0	01	32

[N. O.-11027/59/89/O.N.G.D.II]

का.शा. 24.—यतः पेट्रोलियम और खनिज पदार्थ लाइन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.शा. सं. 2146 तारीख

9-9-89 द्वारा केन्द्रीय सरकार ने उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइन बिछाने के लिए अर्जित करने का प्रस्ताव आशय घोषित कर दिया था।

और यतः न्याय प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का निश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

एन.के.एच.बी. से एल.के.बी.जी.एस.-1 तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात	जिला : अहमदाबाद	तालुका : विरमगाम		
गांव	सर्वे. नं.	हेक्टेयर आर.	सेंटी. आर.	
के.रा.ग.	269/28	0	14	23
	269/27	0	03	60
	269/20	0	69	48
	269/11	0	03	96

[सं. ओ.-11027/60/89-ओ. एन. जी. डी.-III]

S.O. 24.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2146 dated 9-9-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification:

Now therefore, in exercise of the power conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

PIPELINE FROM NKHB TO NK GGS I

State : Gujarat District : Ahmedabad Taluk : Viramagam

Village	Survey No.	Hec.	Area	Cent.
Telavi	209/26	0	14	28
	209/25	0	03	00
	209/20	0	07	48
	209/11	0	03	96

[No. O-11027/60/89/O.N.G.D.II]

का.आ. 25-यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ.सं. 2343 तारीख 23-9-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों के उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा दत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की वजह से और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

एन.के.एच.बी. से एन.के.जी.सी.एच. तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : अहमदाबाद तालुका : विरमगाम

गांव	सर्वे नं.	हेक्टेयर	आर.	से.टी.एच.
भटारिया	57/7	0	06	00
	57/5	0	03	36
	57/3	0	10	08
	57/1	0	01	08

[सं. ओ.-11027/61/89-ओ.एन.जी.डी.-III]

S.O. 25.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2343 dated 23-9-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government :

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now therefore, in exercise of the power conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

PIPELINE FROM NKHB TO NK GGS I

State : Gujarat Dist : Ahmedabad Taluka : Viramagam

Village	Survey No.	Hec.	Area	Centaire
Bhatariya	57/7	0	06	00
	57/5	0	03	36
	57/3	0	10	08
	57/1	0	01	08

[No. O-11027/61/87-O.N.G.D.III]

का.आ. 26-यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ.सं. 2545 तारीख 23-9-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा दत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने का वजह से और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

एन.ओ.बी. से एन.ओ.सी.टी.एच. तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : व तालुका मेहसाणा

गांव	खलाक नं.	हेक्टेयर	आर.	से.टी.एच.
1	2	3	4	5
हेडुवा	207	0	12	84
	212	5	07	32

1	2	3	4	5
	217	0	09	24
	218	0	09	96
	219	0	03	48
	216	0	00	48
	220	0	08	28

[सं. ओ.-11027/62/89-ओ. एन. जी. सी.-III]

S.O. 26.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2545 dated 23-9-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification; notification;

Now therefore, in exercise of the power conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from all encumbrances.

SCHEDULE

PIPELINE FROM SOB.15 TO SOB. VTF.

State : Gujarat District & Taluka : Mehsana

Village	Block No.	Hec.	Area	Cent.
Hebura	207	0	12	84
	212	0	07	32
	217	0	09	24
	218	0	09	96
	219	0	00	48
	216	0	00	48
	220	0	08	28

[N. O.-11027/62/89-O.N.G.D.III]

का.आ. 27 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी.एन.पी.ई. से जी.एन.ए.ए. तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिये।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के योजना के लिए एन.ए.ए. अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रस्तावित शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्वारा घोषित किया है।

बर्तते कि उक्त भूमि में हिनबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सहित प्राधिकारी तेल प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9 को इस अधिनियम की तारीख से 21 दिन के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति निर्निश्चित यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जी.एन.पी.ई. से जी.एन.ए.ए. तक पाइप लाइन बिछाने के लिए
राज्य : गुजरात जिला : भरोच तालुका : अमोद

गांव	क्याक नं.	हे.	आर.	सेंटी.
मंगरोल	काट ट्रैक	0	02	70
	617	0	03	79
	618	0	10	40
	620	0	08	71
	627	0	06	56
	630	0	17	16
	632	0	03	25
	634	0	12	48
	662	0	08	84
	661	0	03	58
	647	0	04	42
	646	0	20	06
	645	0	01	50

[सं. ओ.-11027/161/89-ओ एन जी सी -III]

S.O. 27.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNBE to GNAF in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto :

Now, therefore in exercise of the powers conferred by sub-section (1) Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

PIPELINE FROM GNBE TO GNAF

State : Gujarat District : Bharuch Taluka : Amrod

Village	Block No.	Hect	Area	Centiare
	1		2	3
Mangrol	Carttrack	0	02	70
	617	0	03	79
	618	0	10	40
	620	0	08	71
	627	0	06	56

1	2	3	4	5
	630	0	17	16
	632	0	03	25
	634	0	12	48
	662	0	08	84
	661	0	03	58
	647	0	04	42
	646	0	20	06
	645	0	01	50

[N. O-11027/161/ONGD-III]

का. आ. 28.---यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी. एन. बी. डी. से जी. एन. बी. आई. तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जाती चाहिए ;

और यतः यह प्रतीत होता है कि ऐसी लाइनों की बिछाने के प्रयोजन के लिए एक्टपावर्ट अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है ;

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उपर्युक्त उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्वारा घोषित किया है ;

अर्थात् कि उक्त भूमि में हितवादी कोई व्यक्ति, उस भूमि को नीचे पाइप लाइन बिछाने के लिए आयोग सभ्य प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और वेल्डिंग, मकरपुरा रोड, बर्डीवा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा ;

और ऐसा आशेष करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि या यह यह चाहता है कि उसकी मृतवादी व्यक्तिगत रूप से हो या किसी विशिष्ट व्यक्तियों की मार्फत ।

अनुसूची

जी. एन. बी. डी. से जी. एन. बी. आई. तक पाइप लाइन बिछाने के लिए
राज्य : गुजरात जिला : भाखच तालुका : वागदा

गांव	ब्लॉक नं.	हे.	आर.	सेंटियर
अकतादरा	54	0	40	82
56 पार्ट	1	21	11	
गवर्नमेंट बंड	0	02	86	
53	0	19	63	
52	0	19	01	
कार्ट ट्रैक	0	01	69	
51	0	27	82	
56	0	26	52	
111	0	18	85	
109	0	17	65	
कार्ट ट्रैक	0	05	30	
112	0	39	00	

[मं. आ. 11027/169/89-आ. एन. बी. डी. जी.-III]

S.O. 28.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNBD to GNBI in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission ;

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto ;

Now, therefore in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM GNBD TO GNBI

State : Gujarat District : Bharuch Taluka : Vagra

Village	Block No.	Hect.	Are	Centiare
Aladar	54	0	40	82
	56 Part	1	21	11
	Govt. Bund	0	02	86
	53	0	19	63
	52	0	49	01
	Cart track	0	01	67
	51	0	27	82
	56	0	26	52
	111	0	18	85
	109	0	17	65
	Cart track	0	05	30
	112	0	39	00

[No. O-11027/169/89-ONGD-III]

का. आ. 29.---यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अर्थात् भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. सं. 872 तारीख 23-5-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिश्चित भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आग्रह घोषित कर दिया था ;

और यतः मंत्रालय प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अर्थात् सरकार को रिपोर्ट दे दी है ;

और अतः यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिश्चित भूमियों में उपयोग का अधिकार अर्जित करने का निश्चित किया है ;

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्त का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिश्चित उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है ;

और अतः उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेदन देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग, में सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा ।

अनुसूची

कोलोल--नवागाम--कोमली फेस II तक पाइप लाइन बिछाने के लिए।
राज्य--गुजरात जिला--खेड़ा तालुका--मातर

गांव	सर्वे नं.	हेक्टेयर	आर.	सेंटीयर
कठवाडा	463	0	40	00
	464	0	32	00
	465	0	12	20

[नं. ओ-11027/23/89-ओ. एन. जी. डी. III]

S.O. 29.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 872 dated 23-8-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification

Now therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

PIPELINE FOR K.N.K. PHASE II

State : Gujarat Distr : Kheda Taluka : Matar

Village	Survey No.	Hect.	Are	Centiare
Kathawada	463	0	40	00
	464	0	32	00
	465	0	12	20

[N.O. 11027/23/89-O.N.G.D.-III]

का. प्रा. 30 --यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. प्रा. सं. 2142 तारीख 9-9-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइन को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है,

और आगे, यतः केन्द्रीय सरकार उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है,

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा घोषित करती है कि

इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है,

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस प्रयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगी।

अनुसूची

बी. एन. आई. सी. से बी. एन. ए. व. आई तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात जिला : मेहसाणा तालुका : मेहसाणा

गांव	सर्वे नं.	हेक्टेयर	आर.	सेंटीयर
बलोल	1229	0	05	76
	1216	0	01	20
	1217	0	02	16
	1215	0	03	96
	1216	0	02	76
	1210	0	09	00
	1209	0	08	76
	1205	0	10	08
	915	0	05	40
	916	0	07	32

[नं. ओ-11027/63/89-ओ. एन. जी. डी.-III]

S.O. 30.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2142 dated 9-9-89 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

PIPELINE FROM BLIC TO BLHY

State : Gujarat Dist : Mehsana Taluka : Mehsana

Village	Survey No.	Hect.	Are	Centiare
1	2	3	4	5
Balol	1229	0	05	76
	1216	0	01	20
	1217	0	02	16

1	2	3	4	5
	1215	0	03	9
	1216	0	02	76
	1210	0	09	00
	1207	0	08	76
	1205	0	10	03
	615	0	03	49
	716	0	07	3

[N. O-11027/63/89/D.N.G.A.D. II]

का. भा. सं. 31. —यह पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का भा. सं. 2134 तारीख 9-9-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना प्राण्य घोषित कर दिया था;

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार की रिपोर्ट दे दी है;

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है;

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रवृत्त शक्ति का प्रयोग करने हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तब और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की उय तारीख को निहित होगा।

अनुसूची

एन. के. जी. एन. से. एन. के. जी. जी. एस-III तक पाइप लाइन बिछाने के लिए।

राज्य: गुजरात जिला: तालुका: मेहसाना

गांव	सर्वे नं०	हेक्टेयर	आर	सेंटीयर
धनपुरा	640	0	06	72
	655/1	0	02	52
	654	0	16	32
	653	0	00	48
	650	0	09	72
	473	0	12	00

[सं. ओ-11027/57/89-प्रो. एन. जी. डी-III]

S.O. 31.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2134 dated 9-9-9 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas, the Competent Authority has under sub-section (1) of Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

PIPELINE NKGN TO NK GGS III.

State : Gujarat District & Taluka : Mehsana

Village	Survey No.	Hec.	Are	Centiare
Dhanpura	640	0	06	72
	655/1	0	02	52
	654	0	16	32
	653	0	00	48
	650	0	09	72
	473	0	12	00

[No. O-11027/57/89/O.N.G.D.-III]

का. भा. 32. —यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन डी जी से एपीएस तक पेट्रोलियम के परिवहन के निम्न पाइपलाइन लेन तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए;

और यतः यह प्रतीत होता है कि ऐसी ज़ाहनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना प्राण्य एतद्वारा घोषित किया है;

बशर्ते कि उक्त भूमि में हितयुक्त कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तब तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा;

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जी. एन. डी. जी. से ड. पी. एस तक पाइप लाइन बिछाने के लिए
राज्य: गुजरात जिला: मच्छ तालुका: बागरा

गांव	ब्लॉक नं.	हे.	आर	सेंटी.
गंधार	322/ए+बी	0	89	44

[सं. ओ-11027/165/89/प्रो. ए. डी. जी-III]

S.O. 32.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNDG to EPS in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquired that right of user in the land described in the schedule annexed hereto:—

Now, therefore in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

PIPELINE FROM GNDG TO E.P.S.

State : Gujarat	District : Bharuch	Taluka : Vagra			
Village	Block No.	Hec.	Acre	Centiare	
1	2	3	4	5	
Grandhar	322/A-1 B	0	89	41	

[NO. O-11027/16./89-ONG.D.II]

MINISTRY OF ENERGY

(Department of Coal)

CORRIGENDUM

New Delhi, the 14th December, 1989

S.O. 33.—In the notification of the Government of India in the Ministry of Energy (Department of Coal), S.O. No. 120(E), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 27th February, 1987, under the heading “(Department of Coal)” for “25th February, 1986” read “25th February, 1987”.

[No. 43015/4/87-CA/LSW]

B. B. RAO, Under Secy.

नगर विमानन मंत्रालय

नई दिल्ली, 15 दिसम्बर, 1989

का. प्रा. 34 —बाधुआन नियम अधिनियम, 1953 (1953 का 27) की धारा 5(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार नत्कास से एयर इंडिया के अध्यक्ष श्री रतन टाटा को त्यागपत्र स्वीकार करती है।

[संख्या एओ-18014/9/89--7, सं. (आई. ए.)]

जे. आर. नागपाल, अधीन सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 15th December, 1989

S.O. 34.—In exercise of the powers conferred by Section 5(1) of the Air Corporations Act, 1953 (27 of 1953), the Central Government hereby accept the resignation of Shri Ratan Tatu, as Chairman of Air India, with immediate effect.

[No. AV. 18014/9/89-AC (IA)]

J. R. NAGPAL, Under Secy.

भारतीय पुरातत्व सर्वेक्षण

(संस्कृति विभाग)

नई दिल्ली, 21 दिसम्बर, 1989

(पुरातत्व)

का.प्रा. 35 —केन्द्रीय सरकार ने, प्राचीन संस्मारक तथा पुरातत्वोपेय स्थल और अश्वमेध अधिनियम, 1958 (1958 का 24) की धारा 1 की उपधारा (1) की अनेकानुसार भारत सरकार के संस्कृति विभाग (भारतीय पुरातत्व सर्वेक्षण) की अधिसूचना सं. का.प्रा. 2713 तारीख 10 अगस्त, 1988 द्वारा जो भारत के राजपूत, भाग 2, खण्ड 3, उपखण्ड (ii), तारीख 10 सितम्बर, 1988 में प्रकाशित की गई थी, उक्त अधिसूचना की अनुसूची में विनिर्दिष्ट संस्मारक को राष्ट्रीय महत्व का घोषित करने के अनेक आशय की दो माम की सूचना दी थी और उक्त अधिसूचना की एक प्रति उक्त संस्मारक के समीप एक सहजदृश्य स्थान पर लगा दी गई थी,

और उक्त राजपूत जन्ता को 12 सितम्बर, 1988 को उपस्थित करा दिया गया था,

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त उदावद्ध अनुसूची में विनिर्दिष्ट प्राचीन संस्मारक को राष्ट्रीय महत्व का घोषित करती है।

अनुसूची

संघ राज्य क्षेत्र	जिला	तहसील	परिवर्त	संस्मारक का नाम	सुरक्षा के अन्तर्गत आने वाले राजपूत साइट संख्या
1	2	3	4	5	6
दिल्ली	दिल्ली	महरीना	बड़वा मरावा	अजीम खां का कब्रिस्तान अकाल मकबरा	सर्वेक्षण प्लॉट सं. 9, 20, 21, 53618, 522117, 525119, और 529124 का जैसा तांब पुनः उद्घाटन स्थल रेखांक दर्शाया गया है, भाग

ARCHAEOLOGICAL SURVEY OF INDIA

(Department of Culture)

New Delhi, the 21st December, 1989

(ARCHAEOLOGY)

S.O. 35.—Whereas by a notification of the Government of India in the Department of Culture (Archaeological Survey of India) No. S.O. 2713, dated the 10th August, 1988, published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 10th September, 1988 the Central Government gave two months' notice of its intention

to declare the monument specified in the Schedule to the said notification to be of national importance and a copy of the notification was affixed in a conspicuous place near the said monuments as required by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

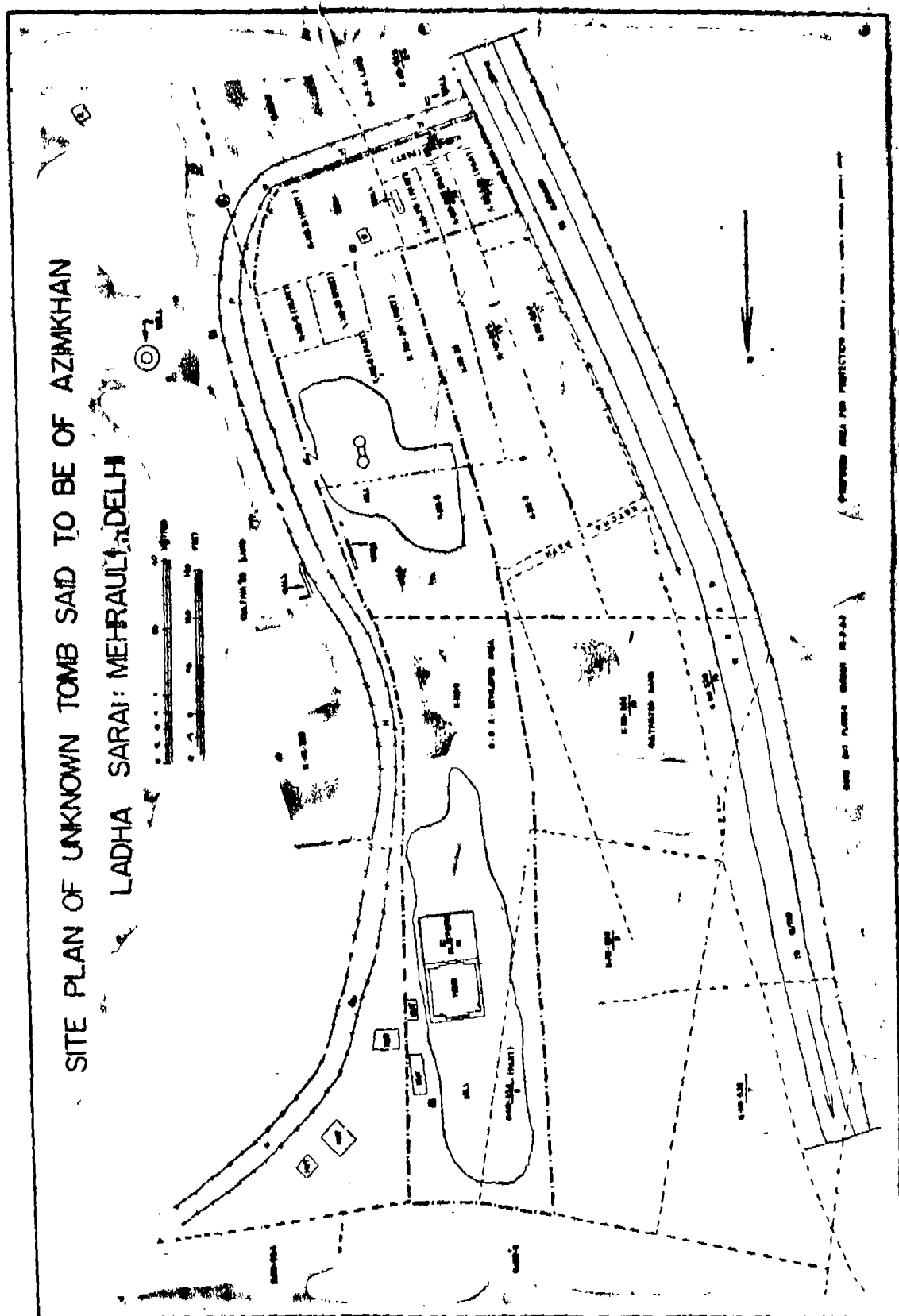
And whereas the said Gazette was made available to the public on 12th September, 1988 ;

Now, therefore in exercise of the powers conferred by sub-section 3 of section 4 of the said Act, the Central Government hereby declares the Ancient monument specified in the Schedule annexed hereto to be of national importance.

SCHEDULE

Union Territory	District	Tehsil	Locality	Name of monument	Revenue plot numbers included under protection
1	2	3	4	5	6
Delhi	Delhi	Mehrauli	Ladha Sarai	Unknown Tomb said to be of Azim Khan.	Part of survey plot Nos. 7, 20 and 21, 536/8, 522/17, 525/19 and 529/24 as shown on the site plan reproduced below.

Area	Boundaries	Ownership	Remarks
7	8	7	10
15 Bigha and 14 Biswa.	North. Survey plot No. 6 East. Survey plot No. 335 SOUTH. Remaining portion of Survey plot Nos. 21 and 529/24. WEST. Survey plot No. 538/10 and remaining portion of Survey of plot Nos. 9, 20, and 536/8.	Survey plot Nos. 536/8 and 522/17 private. Remaining Gram Sabha.	Nil



क. घा. 36.—केंद्रीय सरकार ने, भारत सरकार के संस्कृति विभाग (भारतीय पुरातत्व सर्वेक्षण) की एक अधिसूचना सं. का. घा. 2028 तारीख 10 जून, 1988 द्वारा, जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 2 जुलाई, 1988 में प्रकाशित की गई थी, उक्त अधिसूचना की अनुसूची में विनिर्दिष्ट संस्मारक को राष्ट्रीय महत्व का घोषित करने के अपने प्राणय की दो मास की सूचना दी थी,

और प्राचीन संस्मारक तथा पुरातत्वीय स्थल और अवशेष अधिनियम 1958 (1958 का 24) की धारा 4 की उपधारा (1) की अपेक्षानुसार उस अधिसूचना की एक प्रति उक्त संस्मारक के समीप एक सहजवृक्ष स्थान पर लगा दी गई थी,

और केंद्रीय सरकार को एसी घोषणा करने के विरुद्ध कोई आक्षेप प्राप्त नहीं हुआ था,

अतः, केंद्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे की अनुसूची में विनिर्दिष्ट प्राचीन संस्मारक को राष्ट्रीय महत्व का घोषित करती है।

अनुसूची

राज्य	जिला	तहसील	परिक्षेत्र	संस्मारक का नाम	संरक्षण के अधीन सम्मिलित किए जाने वाले राजस्व प्लॉट संख्यांक
1	2	3	4	5	6
कर्नाटक	शिमोगा	शिकरीपुर	बेल्लिगवी	सोमनाथ स्वामी मन्दिर	सर्वेक्षण प्लॉट संख्यांक 204
7	8		9		10
क्षेत्र	सीमाएं		स्वामित्व		टिप्पण
691 वर्गमीटर	उत्तर—मड़क पूर्व—सर्वेक्षण प्लॉट संख्यांक 205 दक्षिण—सर्वेक्षण प्लॉट संख्यांक 202/4 और 202/5 पश्चिम—सर्वेक्षण प्लॉट संख्यांक 202/6, 202/7, और 202/81		सरकारी		—

[सं. 2/22/81-एस]

S.O. 36.—Whereas by a notification of the Government of India in the Department of Culture (Archaeological Survey of India) No. S.O. 2028 dated the 10th June, 1988 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 2nd July, 1988, the Central Government gave two months notice of its intention to declare the ancient monument specified in the Schedule below to be of National importance;

And whereas, a copy of the notification was affixed as required by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24

of 1958) in a conspicuous place near the said ancient monument;

And whereas, no objections have been received to the making of such declaration by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby declares the ancient monument specified in the Schedule below to be of national importance.

SCHEDULE

State	District	Tehsil	Locality	Name of monument	Revenue plot numbers included under protection.
1	2	3	4	5	6
Karnataka	Shimoga	Shikaripur	Belligavi	Somanatha Swamy Temple.	Survey plot No. 204.

Area	Boundaries	Ownership	Remarks
7	8	7	10
691 sq. meters.	NORTH. -- Road. EAST. -- Survey plot No. 205. SOUTH. -- Survey plot No. 202/4 and 202/5. WEST. -- Survey plot Nos. 202/6, 202/7, and 202/8.	Government.	

[No. 2/22/81-M]

का.प्र. 37 --केन्द्रीय सरकार की यह राय है कि इससे उपबद्ध अनुसूची में विनिर्दिष्ट प्राचीन संस्मारक राष्ट्रीय महत्व का है;

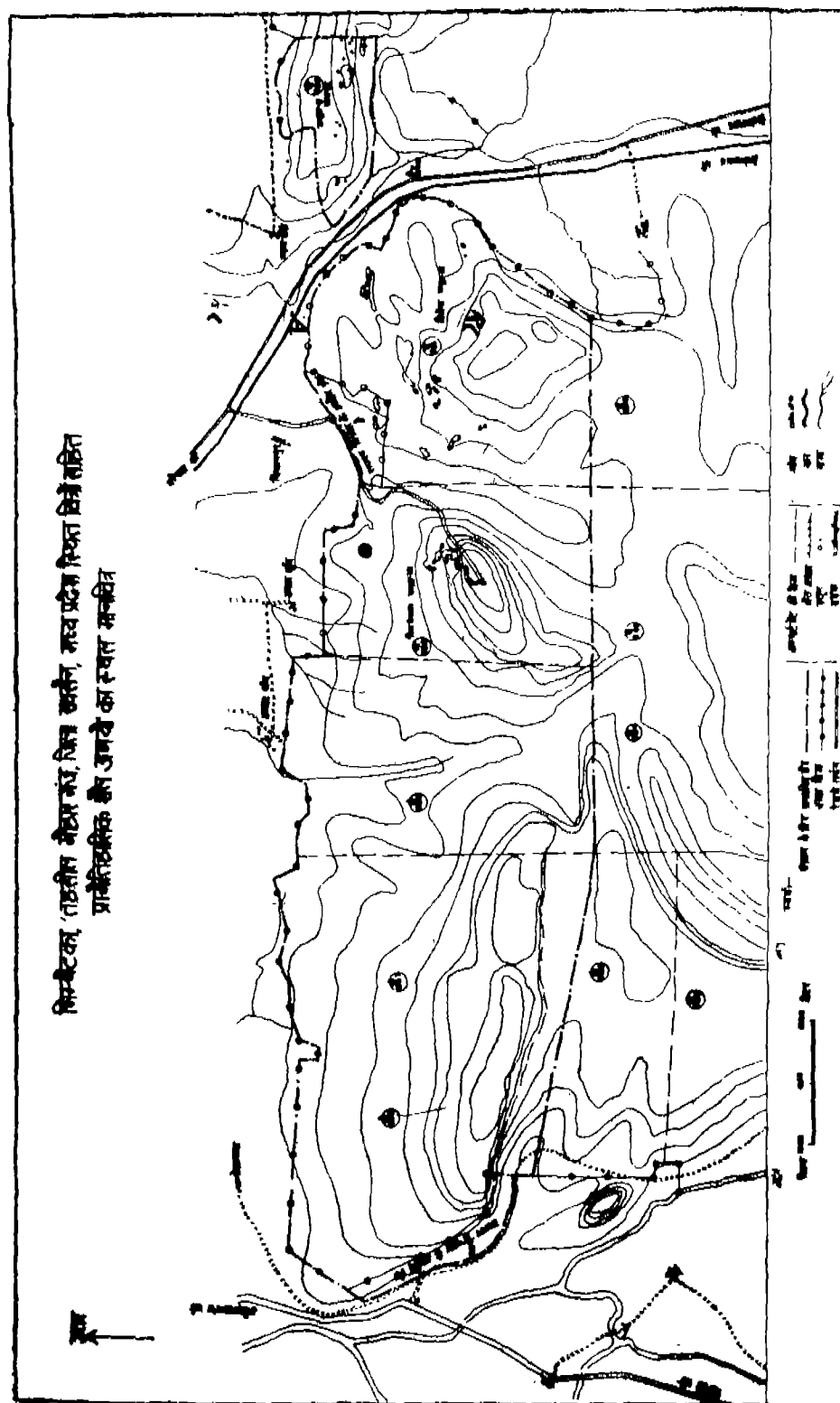
अतः, अब, केन्द्रीय सरकार, प्राचीन संस्मारक तथा पुरातत्वीय स्थल और अवशेष अधिनियम, 1958(1958 क 24) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त प्राचीन संस्मारक को राष्ट्रीय महत्व का घोषित करने के अपने आशय की सूचना देती है।

केन्द्रीय सरकार, इस अधिसूचना के राजपत्र में प्रकाशित होने की तारीख से दो मास की अवधि के भीतर उक्त प्राचीन संस्मारक में हितबद्ध किसी व्यक्ति से प्राप्त किसी आक्षेप पर विचार करेगी।

अनुसूची

राज्य	जिला	परिचय	संस्मारक का नाम	संरक्षण के लिए शामिल किए जाने वाले राजस्व प्लॉट संख्यांक
1	2	3	4	6
मध्य प्रदेश	रायसेन	1. मायनपुर 2. भमछाखुर्द 3. भमछाकला 4. कसलवाड़ा 5. गौतमपुर 6. खोरडा 7. बिनेका 8. ताजपुर	प्रागैतिहासिक गुफाओं में जिलकारी जो ताजपुरा बिनेका, भीम बेटका, लेखाजुअर पूव और लेखाजुअर पश्चिम समूहों की बनी है।	1. नीचे पुनः उद्धृत स्थल रेखांक में दर्शाए गए वन प्रकोष्ठ पी-959 का भाग 2. 5-वन प्रकोष्ठ संख्यांक, पी-951, पी 952, पी-953, पी-956, पी-957, पी 958, और गौतमपुर ग्राम के राजस्व खसरा सं. 29 का भाग और मियनपुर ग्राम के सर्वेक्षण सं. 209 का भाग

क्षेत्र	सीमाएं	स्वामित्व	टिप्पणी
6	7	8	9
1891. 70 हेक्टर	1. उत्तर--ताजपुर वन, वन सीमा पूव--वन प्रकोष्ठ सं. पी. 959 का भाग दक्षिण--बिनेका ग्राम की वन सीमा पश्चिम--नाला और लो. बि. वि. सड़क से संलग्न गाड़ी पथ 2. 5-उत्तर--कसलवाड़ा, भमछाकला, भमछाखुर्द मियानपुर। पूर्व--रेल मार्ग के पूरव में बिनेका, वारेडा ग्राम की वन सीमा। दक्षिण--वन प्रकोष्ठ सं. पी 951, पी 952, पी 953, पी-966 का शेष भाग और गौतमपुर ग्राम के खसरा सं. 29 का शेष भाग। पश्चिम--गौतमपुर ग्राम का खसरा सं. 29 का शेष भाग और सड़क।	मध्य प्रदेश सरकार	



S.O. 37.—Whereas the Central Government is of the opinion that the ancient monument specified in the Schedule annexed hereto is of national importance ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958),

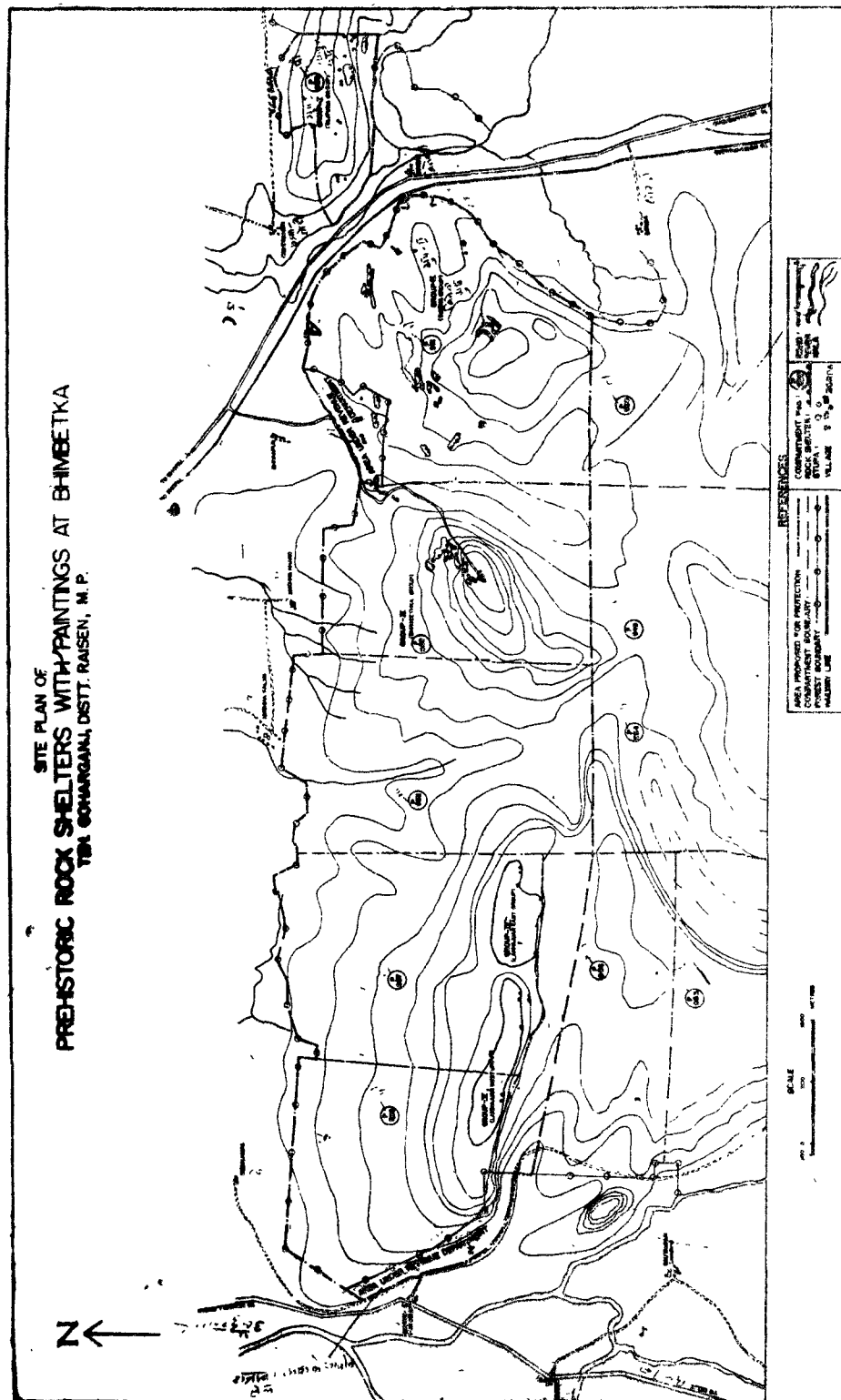
the Central Government hereby gives notice of its intention to declare the said ancient monument to be of national importance.

Any objection which may be received within a period of two months from the date of issue of this notification in the Official Gazette from any person interested in the said ancient monument will be taken into consideration by the Central Government.

SCHEDULE

State	District	Locality	Name of Monument	Revenue plot numbers to be included under protection
1	2	3	4	5
1. Madhya Pradesh	Raisen	1. Bhaijanpur 2. Amchha Khurd 3. Amchha Kalan 4. Kesalwara 5. Gotampur 6. Borda 7. Bineka 8. Tejpora	Prehistoric Rockshelters with paintings comprising of Tajpura Bineka, Bhimbethka, Lakha-juar East & Lakha-juar West. groups	I—Part of Forest Compartment Number P-959 as shown on the site plan reproduced below. II—Part of Forest Compartment Number P-951, P-952, P-953, P-956, P-957, P-958 and part of revenue Khasra number 29 of Village Gotampur and part of survey number 209 of village Bhianpura.

Area	Boundaries.	Ownership	Remarks
6	7	8	9
1891.70 Hectares	I—North—Forest boundary of Tajpura Forest. East—Part of Forest Compartment number P-959 South—Forest boundary of village Bineka. West.—Cart track abutting Nala and P.W.D. road. II—V North—Village Kesalwara, Amchha Kalan, Amchha Khurd, Bhianpur. East, - Forest boundary of village Bineka, Borda in the east of Railway line. South.—Remaining parts of Forest Compartment numbers P-951, P-952, P-953, P-956 and remaining part of Khasra No. 29 of Village Gotampur. West—Remaining part of Khasra No. 29 of Village Gotampur and road.	Government of Madhya Pradesh	



का.प्र. 38.—केन्द्रीय सरकार ने, भारत सरकार के परकवि विभाग (भारतीय पुरातत्व सर्वेक्षण) को एक अधि.पत्रा. सं. का.प्र. 3200 तारीख 12 अक्टूबर, 1988 द्वारा, जो भारत के राजपत्र भाग 2, खंड 3, उपखंड (II) तारीख 29 अक्टूबर, 1988 में प्रकाशन की गई थी, प्राचीन संस्मारक तथा पुरातत्विक स्थल और अवशेष अधिनियम, 1958 (1958 का 24) की धारा 4 की उपधारा (1) की अपेक्षाानुसार उक्त अधिसूचना की अनुसूची में विनिर्दिष्ट संस्मारक को राष्ट्रीय महत्व का घोषित करने के अपने आशय की दो मास की सूचना दी थी और उक्त अधिसूचना की एक प्रति उक्त संस्मारक के समीप एक महजदूष्य स्थान पर लगा दी गई थी,

और उक्त अधि.पत्रा.पत्रा. को 31 अक्टूबर, 1988 को उपलब्ध करा दिया गया था,

और केन्द्रीय सरकार को ज्ञात है कि कोई आक्षेप प्राप्त नहीं हुआ है,

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इसमें उल्लिखित अनुसूची में विनिर्दिष्ट प्राचीन संस्मारक को राष्ट्रीय महत्व का घोषित करती है।

अनुसूची

राज्य	जिला	परिक्षेत्र	संस्मारक का नाम	संरक्षण के अधीन सम्मिलित राजस्व प्लॉट संख्यांक
1	2	3	4	5
हिमाचल प्रदेश	लाहौल स्पीति	स्पीति	फू गुम्हा बौद्ध मठ	खसरा प्लॉट सं. 374/1
क्षेत्र	सीमाएं	स्वामित्व	टिप्पणियां	
6	7	8	9	
150 वर्ग मीटर	सर्वेक्षण प्लॉट सं. 374/1 के बागों और अवशेषित पहाड़	हिमाचल प्रदेश सरकार	—	

[सं. 2/16/78-एम]

S.O. 38.—Whereas by a notification of the Government of India in the Department of Culture (Archaeological Survey of India) No. S.O. 3200, dated the 12th October, 1988 published in the Part II, Section 3, Sub-section (ii) of the Gazette of India, dated the 29th October, 1988, the Central Government gave two months' notice of its intention to declare the monument specified in the Schedule to the said notification to be of national importance and a copy of the said notification was affixed in a conspicuous place near the said monument as required by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).

And whereas the said Gazette was made available to the public on 31st October, 1988 ;

And whereas no objection from the public has been received by the Central Government ;

Now, therefore in exercise of the powers conferred by sub-section 3 of section 4 of the said Act, the Central Government hereby declares the Ancient monument specified in the Schedule annexed hereto to be of national importance.

SCHEDULE

State	District	Locality	Name of monument.	Revenue plot number included under protection
1	2	3	4	5
Himachal Pradesh.	Lahaul and Spiti	Spiti	Phoo Gumpha Buddhist Monastery.	Khasra plot no.374/1
Area	Boundaries	Ownership	Remarks	
6	7	8	9	
150 square meters.	Unsurveyed hill all around survey plot No. 374/1.	Himachal Pradesh Government.	—	

[No. 2/16/78-M]

का.आ. 39.—केन्द्रीय सरकार ने, प्राचीन संस्मारक तथा पुरातात्विक स्थल और अवशेष अधिनियम, 1958 (1958 का 21) की धारा 1 की उप-धारा (1) की अध्यानुसार, भारत सरकार के संस्कृति विभाग (भारतीय पुरातत्व सर्वेक्षण) की एक अधिसूचना सं. का.आ. 1514, तारीख 5 मई, 1988 द्वारा जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 21 मई, 1988 में प्रकाशित की गई थी, उक्त अधिसूचना की अनुसूची में विनिर्दिष्ट प्राचीन स्थल को राष्ट्रीय महत्व का घोषित करने के अपने आशय की दो मास की सूचना दी थी और उस अधिसूचना की एक प्रति उक्त स्थल के समीप एक सहज दृश्य स्थान पर लगा दी गई थी,

और उक्त राजपत्र जनता को 23 मई, 1988 को उपलब्ध करा दिया गया था,

और केन्द्रीय सरकार को जनता से कोई आक्षेप प्राप्त नहीं हुआ है,

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इसमें उदाहरण अनुसूची में विनिर्दिष्ट प्राचीन स्थल को राष्ट्रीय महत्व का घोषित करती है।

अनुसूची

राज्य	जिला	तहसील	परिक्षेत्र	स्थल का नाम	संरक्षण के अधीन सम्मिलित किया जाने वाला राजस्व प्लॉट संख्यांक
1	2	3	4	5	6
उत्तर प्रदेश	हरदोई	गाहवाड़	पट्टिना खेड़ा (लखमापुर)	प्राचीन टीला	सर्वेक्षण प्लॉट सं. 123

क्षेत्र	सीमा	स्वामित्व	टिप्पणियां
7	8	9	10
12.438 हेक्टर	उत्तर—सर्वेक्षण प्लॉट सं. 90, 91, 91, 93, 94 और 99 पूर्व—सर्वेक्षण प्लॉट सं. 122 और 143 दक्षिण—सर्वेक्षण प्लॉट सं. 62, 124, 125, 126, 127, 128, 129, 130, 131, 134, 136, 137, 138 और 139। पश्चिम—सर्वेक्षण प्लॉट सं. 63, 66, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79 और 80।	भवन (ग्राम समाज)	सर्वेक्षण प्लॉट सं. 2391123 पर एक प्राधुनिक मन्दिर है।

[सं. 2/45/76-एम]

S.O. 39.—Whereas by a notification of the Government of India in the Department of Culture (Archaeological Survey of India) No. S.O. 1544, dated the 5th May, 1988 published in Part II, Section 3, Sub-section (ii) of the Gazette of India, dated the 21st May, 1988, the Central Government gave two months notice of its intention to declare the ancient site specified in the Schedule to the said notification to be of national importance and a copy of the said notification was affixed in a conspicuous place near the said site as required by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).

And whereas the said Gazette was made available to the public on the 23rd May, 1988 ;

And whereas no objection from the public has been received by the Central Government ;

Now, therefore in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, the Central Government hereby declares the Ancient Site specified in the Schedule annexed hereto to be of national importance.

SCHEDULE

State	District	Tehsil	Locality	Name of site	Revenue plot numbers included under protection.
1	2	3	4	5	6
Uttar Pradesh	Hardoi	Shahbad	Pahunchina Khera (Lakhamapur)	Ancient mound	Survey plot No. 123

Area	Boundaries	Ownership	Remarks
7	8	9	10
12.438 Hectares	NORTH.—Survey plot Nos. 90, 91, 92, 93, 94 and 99 EAST.—Survey plot Nos. 122 and 143. South.—Survey plot Nos. 62, 124, 125, 126, 127, 128, 129, 130, 131, 134, 136, 137, 138 and 139. WEST.—Survey plot Nos. 63, 66, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79 and 80.	Bhawan (Gram Samaj)	A modern temple stands on survey plot No. 239/123.

{No. 2/45/76-M}

का.प्र. 40 —केन्द्रीय सरकार की यह राय है कि इससे उपाय्य अनुसूची में विनिर्दिष्ट प्राचीन संस्मारक राष्ट्रीय महत्व का है,

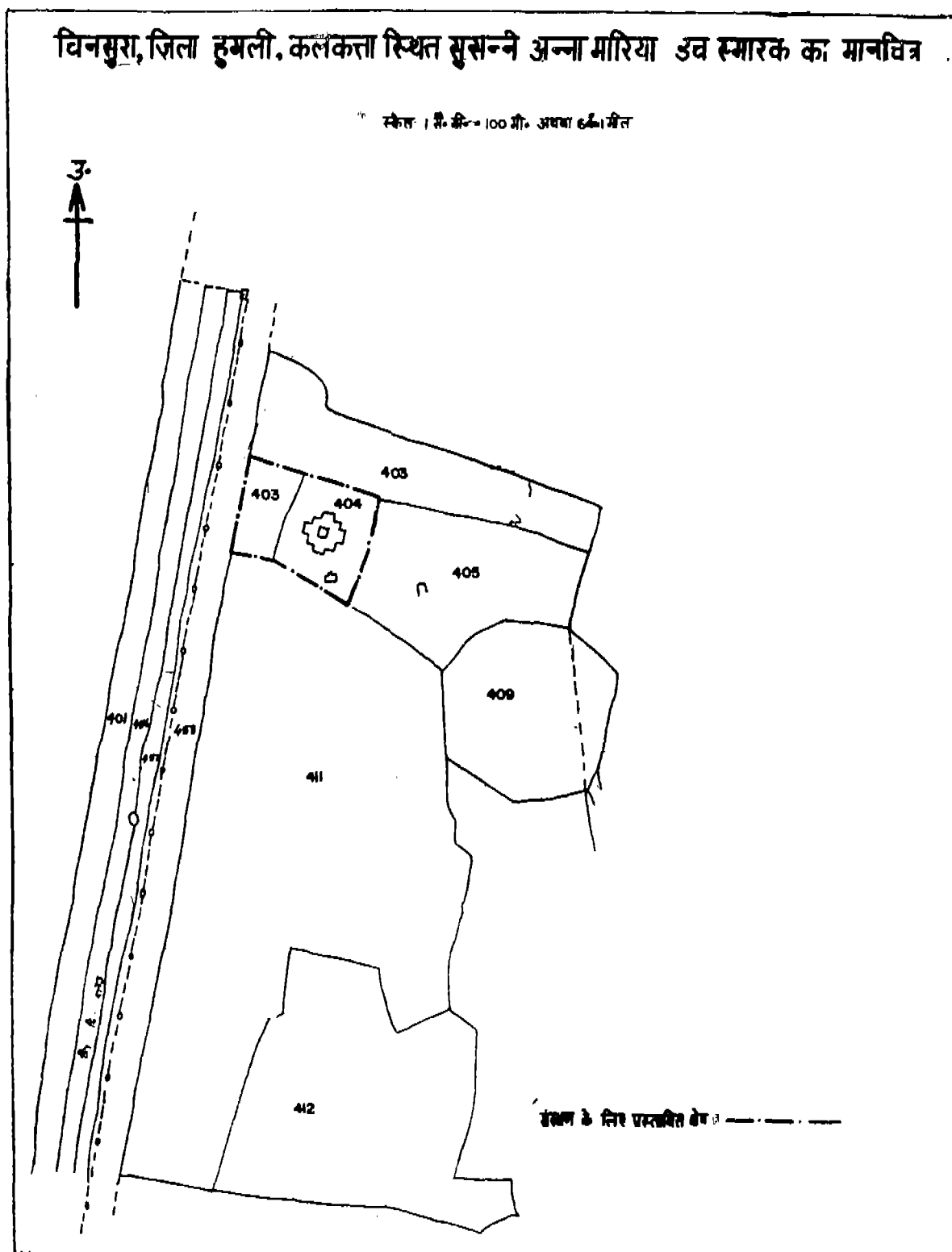
अतः, अब, केन्द्रीय सरकार, प्राचीन संस्मारक तथा पुरातत्वीय स्थल और अवशेष अधिनियम, 1958 (1958 का 24) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त प्राचीन संस्मारक को राष्ट्रीय महत्व का घोषित करने के अपने आशय की सूचना देती है,

ऐसे आशय पर, जो इस अधिसूचना के राजपत्र में जारी करने की तारीख से दो मास की अवधि के भीतर उक्त प्राचीन संस्मारक में द्वित्व किसी व्यक्ति से प्राप्त होगा, केन्द्रीय सरकार विचार करेगी।

अनुसूची

राज्य	जिला	परिक्षेत्र	संस्मारक का नाम	संरक्षण के अधीन सम्मिलित किए जाने वाले राजस्व प्लॉट संख्यांक
1	2	3	4	5
पश्चिमी बंगाल	हुगली	सोजा उत्तर चन्द्रनागोर	सुसाने ए.सी. म.रिया का इक्षु स्मारक संस्मारक	नीचे उद्धृत स्थल रेखांक में यथादिष्ट सर्वेक्षण प्लॉट संख्यांक 404 और सर्वेक्षण प्लॉट संख्यांक का भाग

क्षेत्र	सीमाएं	स्वामित्व	टिप्पणियां
6	7	8	9
सर्वेक्षण प्लॉट संख्यांक 404-0.221 एकड़ सर्वेक्षण प्लॉट संख्यांक 403 का भाग 0.11 एकड़ और 17 वर्गफुट	उत्तर—सर्वेक्षण प्लॉट संख्यांक 403 का शेष भाग पूर्व—सर्वेक्षण प्लॉट संख्यांक 405 दक्षिण—सर्वेक्षण प्लॉट संख्यांक 411 पश्चिम—सर्वेक्षण प्लॉट संख्यांक 458	प्राइवेट	---



S.O. 40.—Whereas the Central Government is of the opinion that the ancient monument specified in the Schedule annexed hereto is of national importance.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby gives notice of its intention

to declare the said ancient monument to be of national importance.

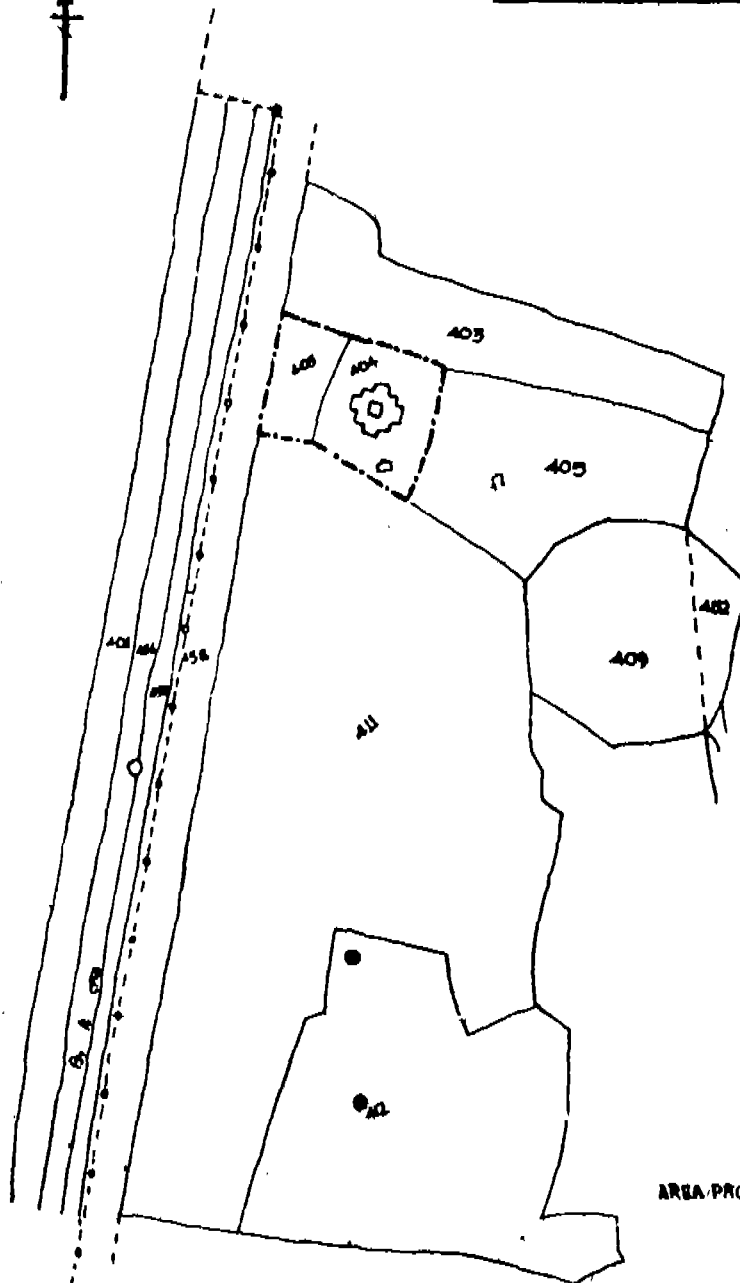
Any objection which may be received within a period of two months from the date of issue of this notification in the Official Gazette from any person interested in the said ancient monument will be taken into consideration by the Central Government.

SCHEDULE

State	District	Locality	Name of Monument	Revenue plot numbers to be included under protection
1	2	3	4	5
West Bengal	Hooghly	Mouze Uttar Chandernagore	Dutch Memorial Monument of Susanne Anne Maria.	Survey plot number 404 and part of survey plot number 403 as shown on the site plan reproduced below.

Area	Boundaries	Ownership	Remarks
6	7	8	9
Survey plot No. 404	0.221 acre	Private	North.—Remaining portion of Survey plot number 403.
Part of survey plot No. 403	0.11 acre and 17 sq. ft.		East.—Survey plot number 405.
and	0.3331 acre and 17 sq. ft.		South.—Survey plot number 411. West.—Survey plot number 458.

SITE PLAN OF DUTCH MEMORIAL MONUMENT
OF SUSANNE ANNA MARIA AT CHINSURAH
DIST. HOOGLY, CALCUTTA.
FROM KNOWN MAPS.



AREA PROPOSED FOR PROTECTION ————

का.प्रा. 41.—केन्द्रीय सरकार की यह राय है कि इसमें उल्लेख अनुसूची में विनिर्दिष्ट सम्मारक राष्ट्रीय महत्त्व का है;

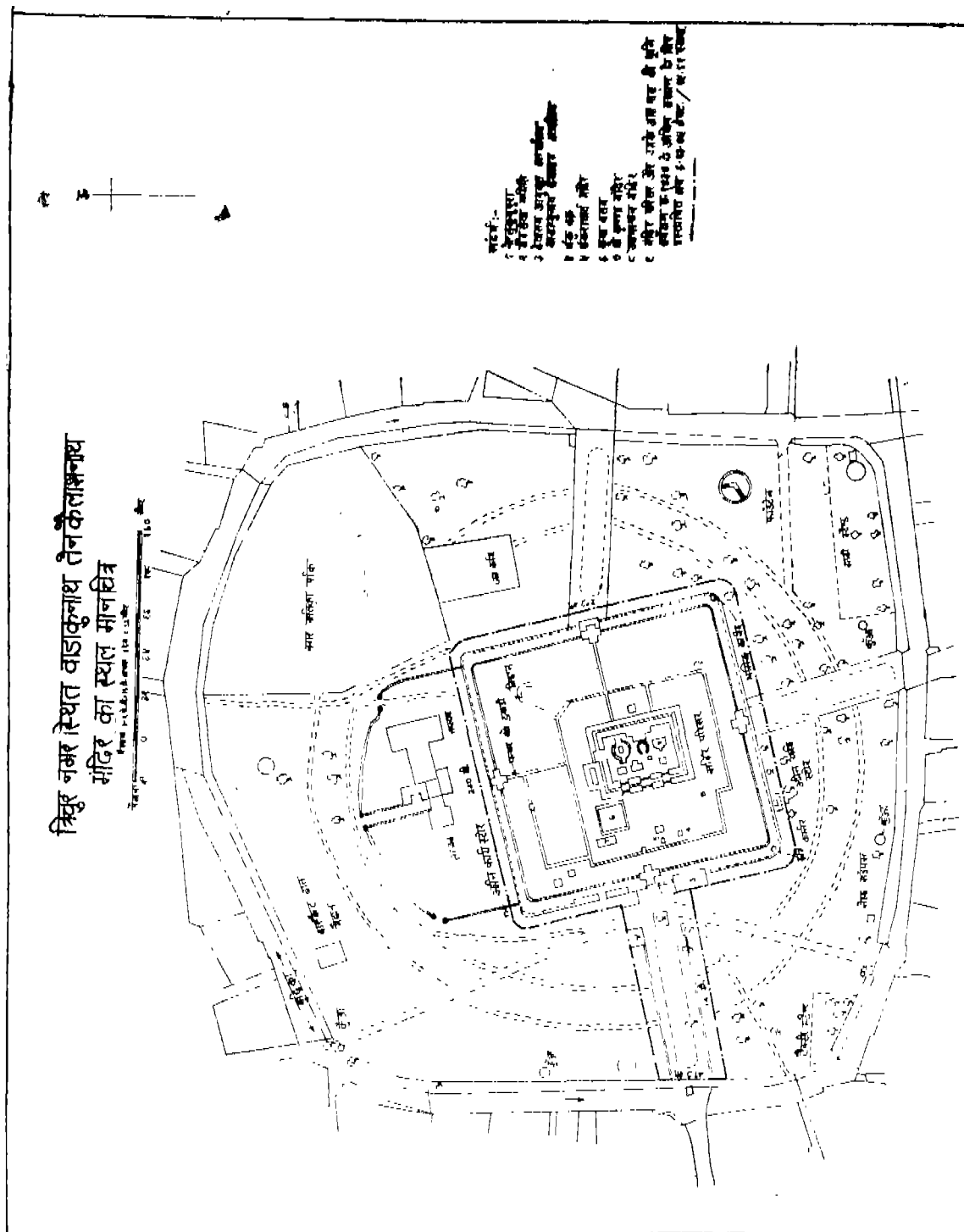
अतः, अब, केन्द्रीय सरकार, प्राचीन सम्मारक तथा पुरातत्त्विक स्थल और अधिशेष अधिनियम, 1958 (1958 का 24) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त प्राचीन सम्मारक को राष्ट्रीय महत्त्व का घोषित करने के अपने आण्य की सूचना देती है,

केन्द्रीय सरकार, इस अधिसूचना के राजपत्र में जारी होने की तारीख से दो मास की अवधि के भीतर उक्त प्राचीन सम्मारक में हितबद्ध किसी व्यक्ति से प्राप्त किसी आक्षेप पर विचार करेगी।

अनुसूची

राज्य	जिला	परिक्षेत्र	सम्मारक का नाम	संरक्षण के अधीन सम्मिलित किया जाने वाला राजस्व प्लॉट संख्यांक
1	2	3	4	5
केरल	त्रिचूर	त्रिचूर नगर (पेरिकान कब्जेदान)	तनेकलाशनाथ (बादाकुप्रथन मंदिर कामलेश्वर)	नीचे उद्धृत किए गए स्थल रेखांक में यथादर्शित सर्वेक्षण प्लॉट सं. 1437 का भाग।

क्षेत्र	सीमा	स्वामित्व	टिप्पणियाँ
6	7	8	9
15.41 एकड़	उत्तर—सर्वेक्षण प्लॉट सं. 1437 का अधिशेष भाग पूर्व—सर्वेक्षण प्लॉट सं. 1437 का अधिशेष भाग पश्चिम—सर्वेक्षण प्लॉट सं. 1437 का अधिशेष भाग दक्षिण—सर्वेक्षण प्लॉट सं. 1437 का अधिशेष भाग	देवास्वम वार्ड	मंदिर पूजाधीन है।



[सं. 2/22/8/87-एम.]

जयहर्षि जोशी, महानिदेशक

S.O. 41.—Whereas the Central Government is of the opinion that the ancient monument specified in the Schedule annexed hereto is of national importance ;

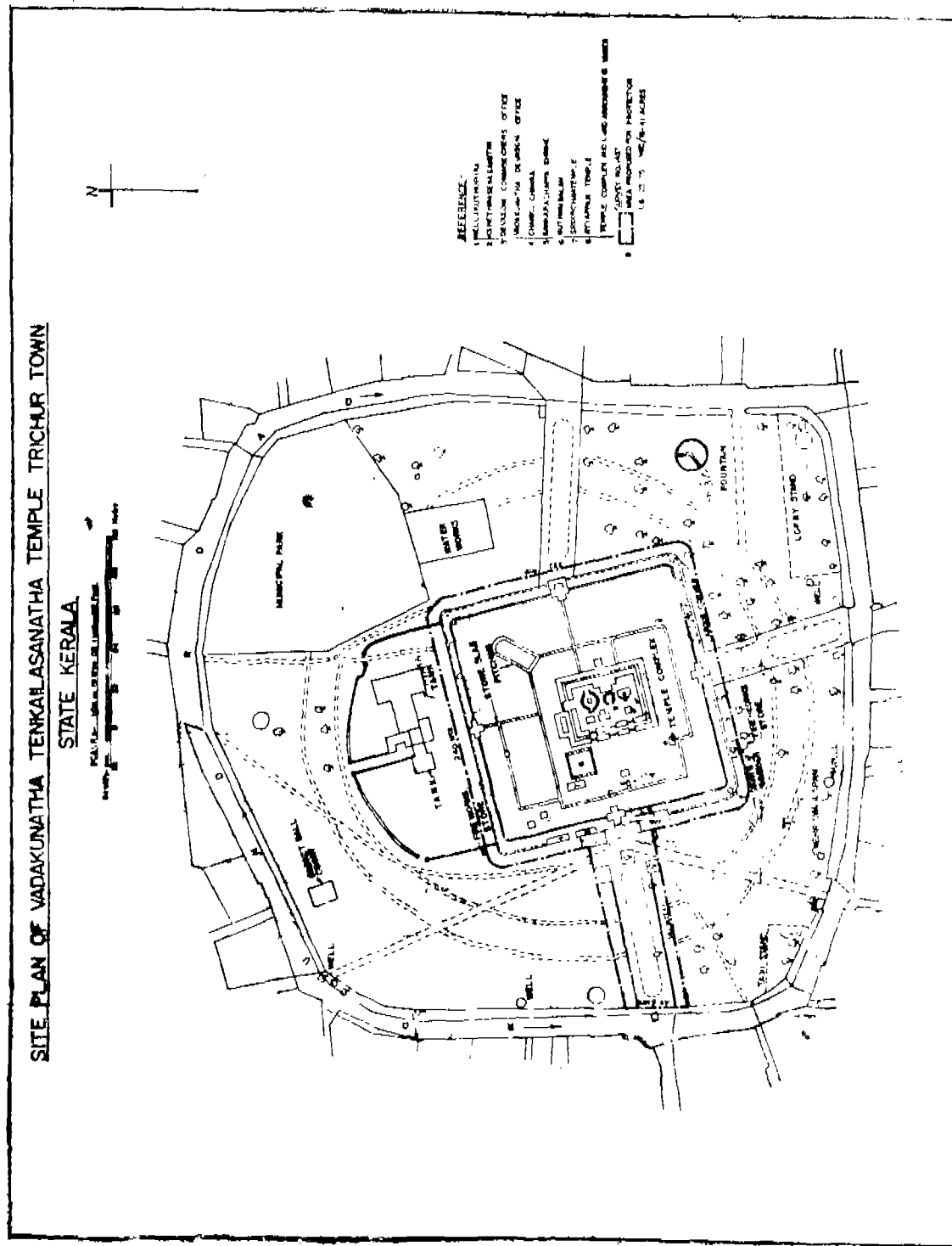
Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby gives notice of its intention

to declare the said ancient monument to be of national importance.

Any objection which may be received within a period of two months from the date of issue of this notification in the Official Gazette from any person interested in the said ancient monument will be taken into consideration by the Central Government.

SCHEDULE

State	District	Locality	Name of monument	Revenue plot numbers to be included under protection.
1	2	3	4	5
Kerala	Trichur	Trichur City (Thekkinkad Maidan)	Tenkailasanatha (Wadakunnathan Temple Complex.)	Part of survey plot number 1437 as shown on the site plan reproduced below.
6	7	8	9	
Area.	Boundaries.	Ownership	Remarks.	
15.41 Acres.	NORTH.—Remaining portion of survey plot number 1437. EAST.—Remaining portion of survey plot number 1437. WEST.—Remaining portion of survey plot number 1437. SOUTH.—Remaining portion of survey plot number 1437.	Devaswom Board.	The temple is under worship.	



अथ मंत्रालय

नई दिल्ली, 12 दिसम्बर, 1989

का. आ. 42.—आर्थिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय स्टेट बैंक के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट आर्थिक विवाद में औद्योगिक अधिकरण, तमिलनाडु मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11 दिसम्बर, 1989 का प्राप्ति हुआ था।

MINISTRY OF LABOUR

New Delhi, the 12th December, 1989

S.O. 42.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Industrial Tribunal Tamil Nadu Madras as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their worker, which was received by the Central Government on 11-12-89.

ANNEXURE**BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU MADRAS**

Wednesday, the 29th day of November, 1989

Industrial Dispute No. 130 of 1987

(In the matter of dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the Management of State Bank of India, Madras).

BETWEEN

Thiru Mohammed Aslam, M,
No. 1/3, 2nd Avenue, Indira Nagar,
Adyar, Madras-600020.

AND

The General Manager,
State Bank of India,
43, Moore Street, Madras.

REFERENCE :

Order No. L-12012/49/87-D.II(A), dated 18-11-1987 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing upon perusing the reference, claim and counter statements and all other material papers record and upon hearing the arguments of Tvl. Row & Reddy, K. S. Janakiraman and K. M. Ramesh, Advocates appearing for the workman and of Tvl. R. Sree Krishnan, S. Krishnamurthy, G. S. M. Sridhar and B. Raghvulu Naidu, Advocates for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

This dispute between the workman and the Management of State Bank of India, Madras arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-12012/49/87-D.II(A), dated 18-1-82 of the Ministry of Labour for adjudication of the following issue :

"Whether the action of the Management of State Bank of India, Region II, Madras in dismissing the workman Shri Mohammed Aslam M. from service with effect 29-1-85 is justified? If not, to what relief is the workman entitled?"

2. The claim Petition averments are that the Petitioner is a workman appointed as a clerk/typist by the Branch Manager in the I.I.T. Madras Branch and on 27-4-1981 he was confirmed in service. The Petitioner had his personal savings Bank account in the I.I.T. Branch of the Respon-

dent from which he inadvertently overdraw cash on three occasions without sufficient cash balance. However on 4-9-1984 he himself brought this fact to the notice of the Branch Manager and settled the dues on 5-9-1984 promptly. Whilesso, the Respondent-Bank suspended the Petitioner pending enquiry on 6-9-1984 and also calling upon him to submit certain explanation. The Petitioner on receipt of this letter explained the Branch Manager personally that the number of transactions mentioned in the letter was not correct and only on three occasions he overdraw the amount and subsequently remitted. Though the Branch Manager promised to close the matter, but persuaded the Petitioner to own up the charges in order to consider his case favourably. Thereupon even in the enquiry the Petitioner was made a scape-goat and made to confess to wrongs. The enquiry was neither fair nor proper and it was summary in nature. Few questions were put to the Petitioner in the nature of cross-examination, and the proceeding was closed. No evidence was let in on the side of the Manager to prove the charges. No witness was examined and no document was produced. Nothing was shown in the enquiry in respect of such settled personal transactions of the Petitioner, how any charge under Section 521-4(j) of the Sastri Award read with para 18.28 of the Desai Award can be laid and how any misconduct as defined under the said Awards could arise. Inspite of second charge no document was produced to establish the same, no witnesses were examined. The Enquiry Officer behind the back of the petitioner conjured his findings as if the ledger sheets were produced. The Enquiry Officer erroneously presumed that the Presenting Officer had given his deposition but in fact no such deposition was given. He cannot presume erroneously that the Petitioner admitted the charges and no need to prove. Thus the enquiry was only a farce enquiry and was no more than an empty formality in the eye of law. Consequently the findings of the Enquiry Officer are erroneous. On the basis of this enquiry findings, the Regional Manager proposed to impose punishment of dismissal and called an explanation for which he sent a reply. However the Regional Manager passed the Order of dismissal on 28-1-1985. The Disciplinary Authority has not noted the fact that the Petitioner had unblemished record of service, but pleaded that the gravity of the fraud warrants dismissal. The fraud is not at all a charge alleged against the Petitioner. Hence the Respondent cannot alter the charges or to add fresh charges sustaining the punishment. The Disciplinary Authority contravened the mandatory provisions of Sastri Award in the matter of imposing punishment. Thereupon after a long correspondence nothing turned out. The Petitioner raised the dispute. Hence the Petitioner craves this Tribunal to hold the action of the Respondent in dismissing the Petitioner as illegal and unjustified and direct the Respondent to reinstate the Petitioner in service with all benefits.

3. The Respondent in its counter states that the Petitioner was proceeded against departmentally in the month of September, 1984 for the acts of gross misconduct and that were serious and grave in nature and that the Petitioner while working at IIT Branch of the Respondent-Bank fraudulently made 17 withdrawals (aggregating Rs. 4650) on different occasions from his savings Bank Account without keeping sufficient Balance and unauthorisedly altered the figures in the relative Savings Bank Day Book Sheets after these sheets have been checked by the officials concerned in order to obviate the possibility of the irregularities regarding the said unauthorised withdrawals committed by him, being deducted. In the enquiry the Petitioner admitted both the charges stating that due to his bad time he ran into bad company with the result that he took funds from his account without sufficient balance therein. He admitted the charges and pleaded mercy. Then on the basis of the findings after giving personal hearing he was awarded the punishment of dismissal without notice from service in terms of para 521-5(a) of the Sastri Award. An appeal preferred by him to the Appellate Authority was also rejected. The Petitioner having admitted the charges at all time of enquiry is estopped from contending against the disciplinary proceedings held against him. The Petitioner has been charged of having withdrawn monies from Saving Bank Account on 17 occasions. On three occasions he has fraudulently tampered with the branch records in his Savings Bank Account. If this has been taken into account

the other 14 withdrawals as mentioned in the charge-sheet would be overdrawing on his account. As per rules overdraft can be granted only in current account with the specific approval of competent authorities. The misconduct of the Petitioner was termed as 'fraud' and hence the charge-sheet was issued and enquiry was conducted. The averments in the claim statement that the Branch Manager promised to close the matter, but persuaded him to own up the charges, are all after thought and cooked up ones. The Petitioner having admitted the charges before the Enquiry Officer it is not open to him to contend that he did not express himself out of his own free will and choice. Thus was made a scape-goat and made to confess to wrongs not done by him. The enquiry was conducted observing all principles of natural justice and fair opportunity was offered to defend himself. The findings of the Enquiry Officer therefore is not perverse. The disciplinary authority has taken into consideration the extenuating circumstances before imposing the punishment. Even assuming the misconduct committed by the Petitioner such a grave attitude, there is no extenuating circumstances would have been considered. Hence the disciplinary authority chose to term the act as fraud. The Respondent submits the reference to this Tribunal is only on the question of punishment and hence the Petitioner cannot agitate the merits of the disciplinary proceedings and is beyond the scope of the reference. Therefore the punishment imposed on the Petitioner is reasonable and legally sustainable. There is no ground warranting any interference by this Tribunal.

4. The points for determination are :

- (1) Whether the dismissal of the Petitioner from service by the Respondent is justified
- (2) To what relief ?

5. Exs. W-1 to W-32 and Ex. M-1, M-2 were marked on either side. W.W.1 was examined on the side of the Petitioner. No oral evidence was adduced on the side of the Respondent.

6. The Petitioner, an employee of the Respondent-Branch of IIT Madras has been charge-sheeted under W-3 that on the dates shown in the charge namely on 17 occasions he drew the amounts in cash without keeping sufficient funds in his Savings Bank Account; that he obviated the possibility of his irregularities being found out, he as the Clean Cash Book Writer, unauthorisedly altered the figures in the Savings Bank Day Book sheets on 29-6-84, 3-7-84 and 5-7-84, after these sheets have been checked by the Officials concerned. Thus according to W-3 the above action of the Petitioner, if proved, would amount to gross misconduct under Section 521-4(i) of the Sastri Award read with para 18.28 of the Desai Award. To these charges he wrote a letter under W-4 dated 17-9-84 wherein unequivocally admitted the charges against him and prayed that he may be given one more lease of life to serve this Respondent-Bank. This letter according to the learned counsel for the Petitioner is only an apology letter. But reading of this letter would clearly show that he admits the misconduct and prays mercy. On receipt of this letter the Respondent Bank conducted an enquiry under Ex. W-6. It is seen from W-6 the Enquiry Officer after reading the charges levelled against the Petitioner questioned him whether he accepted the charges against him. To that the Petitioner answered "Yes". In the light of the fact the Petitioner admitted both the charges, the Enquiry Officer gave his finding at the end of Ex. W-6 itself stating that the Petitioner has admitted the charges levelled against him and on hearing the deposition made by the Presenting Officer he found the Petitioner is guilty of charges levelled against him. At this stage the learned counsel for the Petitioner vehemently attacked the finding on the ground that the Enquiry Officer has stated specifically 'on hearing the deposition of the Presenting Officer, he found the Petitioner guilty'. In this connection it is urged by him that at no stage any evidence was let in on the side of the Respondent and therefore a reference to deposition of the Presenting Officer is totally false and the decision arrived at is perverse. It is true. The Enquiry Officer himself has stated no evidence was given

on the side of Management. Anyway it cannot be contended merely on the basis of this fact, he came to a wrong conclusion that the Petitioner was guilty of charges. It is completely forgotten by the learned counsel for the Petitioner that in para 4 of the finding the Enquiry Officer besides stating the Petitioner admitted the charges, he also adds, on hearing the deposition of the Presenting Officer. It is further seen on the basis of such finding Ex. W-6, he was asked to submit explanation to the proposed punishment mentioned in Ex. W-7 letter. In his explanation under Ex. W-8 he has stated that except this serious lapse, his record of past service had been without any blemish and therefore the proposed punishment may draw. Subsequently after giving personal hearing before the Disciplinary Authority, the proposed punishment of dismissal was confirmed under Ex. W-9 letter. In this order the Disciplinary Authority referred to the fact that though there were no adverse remarks, the gravity of fraud committed by the Petitioner deserves the punishment of dismissal. At this stage the learned counsel for the Petitioner pointed out that there is no reference to any fraud in Ex. W-3. The reference to fraud in Ex. W-9 would amount to alteration or in addition of charges. On the basis of which the Disciplinary Authority has come to a conclusion. In effect according to him the charges cannot be altered and therefore the very order Ex. W-9 is itself not valid. In this connection the learned counsel for the Respondent contended, in view of the gravity of misconduct namely drawing of his Savings Bank Account without sufficient fund and tampered with bank's records are of serious misconducts and therefore the Disciplinary Authority has chosen to term as 'fraud'. In other words his contention is that the misconducts alleged when proved, the fraudulent nature of the act has been exposed and therefore the Disciplinary Authority under Ex. W-9 order named the misconduct as fraud and there is nothing wrong in naming so. In short his contention is that a mere mention of fraud in Ex. W-9 without such reference to Ex. W-3 chargesheet could not vitiate the order of dismissal issued by the Respondent-Bank. But the learned counsel for the Petitioner laid stress and contended when there is no charge for fraud, there cannot be any order of dismissal stating fraud has been committed. It is the plea of the learned counsel for the Petitioner that the Petitioner cannot be punished for fraud. I do not agree with the contention of the learned counsel for the Petitioner. It only appears the wording in Ex. W-9 order does not sound well. Hence it cannot be contended that merely on this defect, the entire order is not valid.

7. At this stage it is relevant to note from the testimony of the Petitioner that he has told the Branch Manager about his withdrawal of his amount without sufficient balance in his account and on the advice of the Branch Manager he wrote a letter Ex. W-1 admitting the fact only in respect of three withdrawal. He would further add that he was not aware whether sufficient fund in his account or not and he never did it intentionally. He would also file Ex. W-32, the original letter addressed to him by the Branch Manager of the Bank enclosing two sets of copy of W-3 and asking the Petitioner to acknowledge one of the copy and calling him forthwith for discussions. His further evidence is on very basis of Ex. W-32 he met the Branch Manager and he directed him to write a letter Ex. W-4 promising that he would not be punished. In effect his evidence is that since the Branch Manager advised him to admit the charge on the promise made by him that he would be left off with warning if he admitted. According to him except those withdrawals, he did not correct the records of the Respondent Bank. In the light of his evidence the learned counsel for the Petitioner vehemently contended that he was persuaded to admit the charge and therefore he admitted at various stages under Ex. W-4, W-8, and W-10. Anyway, the plea of the Petitioner is that he has been misled by the Branch Manager. On the other hand the Enquiry Officer in his enquiry proceedings when he read out the charge-sheet against the Petitioner he questioned him whether he accept the same. The Petitioner answered 'yes'. In respect of both charges when he specifically asked questions he simply said 'yes'. As now contended by the learned counsel for the Petitioner that on the advice of the Petitioner he was lured to give a letter under Ex. W-1, W-4 admitting the charges he had not mentioned the same before the Enquiry Officer. Therefore this plea has

no relevance, since it is an after-thought. The learned counsel also contended that even if the first charge is proved and in the absence of evidence for the second charge namely tampering with the records, the Tribunal has to find the second charge has not been proved. I am unable to accept this contention for the simple reason that the Petitioner has admitted the charges in unambiguous terms before the Enquiry Officer. As rightly pointed out by the learned counsel for the Respondent no need arises to lead evidence by the Respondent-Bank. Hence the Enquiry Officer on the basis of the admission made by the Petitioner has come to a decision holding him guilty. It is not shown how the enquiry is vitiated in as much as every opportunity has been given to the Petitioner, at the time of enquiry. However an argument was advanced by the learned counsel for the Petitioner that even in a case of admission the punishment without enquiry is not valid in law and therefore in this case also the punishment of dismissal is not sustainable. In this connection he referred to a decision reported in 1987-I-L.L.J. page 490 and 1988-W.L.R. page 171. A reading of those decisions would disclose in those cases punishments were imposed without holding an enquiry on the admission of the delinquent or acting on the self incriminating statement. But in the instant case after framing of the charges, an enquiry was conducted and in the enquiry the Petitioner admitted the charges. Therefore the above decisions are not applicable to the facts of the present case.

8. The learned counsel for the Petitioner next contended even assuming the misconducts have been proved, it does not warrant the disciplinary authority to impose the punishment of dismissal especially taking into account the past conduct of the Petitioner. In short he pleaded that in this case taking into consideration the past record of the Petitioner, having voluntarily intimated the fact of withdrawals to the Branch Manager and remitting the amount on the very next day itself, the Disciplinary Authority ought to have applied his mind and given a lesser punishment than dismissal. Much stress is laid on the fact that the above circumstances should have been taken into consideration by the Disciplinary Authority and such punishment of dismissal is not warranted in the circumstances of the case. According to him, the punishment is not only extremely harsh and excessive but is also shockingly disproportionate and it is vindictive victimisation. He also relied on 1983-I-L.L.J. page 261 and 1987-I-L.L.N. page 405 at 419.

9. In 1983-I-L.L.J. page 261 (R. M. Parmar v. Gujarat Electricity Board) the Gujarat High Court has held :

"Even if the workman is in fact guilty, he has the right to invoke Section 11-A of the I.D. Act for reduction of the penalty. The provision itself postulates a finding of guilty warranting a punishment recorded after a contest and empowers the Labour Court to reduce the punishment of the same. Since the power can be exercised even after he is found guilty at the conclusion of the enquiry, where is the compulsion to plead guilty."

10. In 1987—L.L.N. page 405 "The company dismissed two of its workmen after domestic enquiry. In the reference the Labour Court exercised its powers under Section 11-A of the Industrial Disputes Act denied back wages to them to certain extent but gave them the relief of reinstatement. This award was challenged both by the Management and the workmen. Our High Court held even assuming the Labour Court was wrong its assessment of factor material that is not a matter for correction by the High Court under Article 226 of Constitution." Thus reliance is placed on the above decisions to show that this Tribunal can invoke its powers under Section 11-A of the I.D. Act. This argument of the learned counsel for the Petitioner cannot be brushed aside as having no force.

11. But on the other hand the learned counsel for the Respondent argued, the misconducts in this case amounts to fraud and against the interest of the Respondent-Bank and therefore the Petitioner deserves the punishment of dismissal. In other words, he would urge because of gravity of misconducts which are fraudulent acts prejudicial to the Respondent-Bank, such a punishment of dismissal is warranted and

therefore there is no question of invoking Section 11-A of I. D. Act. Section 11-A says :

"Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the court of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require."

In this connection, regarding the powers of Tribunal to invoke Section 11-A of the I.D. Act, the decisions of Supreme Court reported in 1982-II-L.L.J. page 472 and 1989-I-L.L.J. page 71 are relevant.

12. In 1982-II-L.L.J. page 472 (Supreme Court) (Rama Kant Misra v. The State of U.P. and others) the Supreme Court has discussed in detail the purpose of introduction of Section 11-A and the power of Supreme Court on the decision of Labour Court. At page 475 the Supreme Court discusses as follows how Section 11-A came to be enacted :

"The punishment must be for misconduct. To some extent misconduct is a civil crime which is visited with civil and pecuniary consequences. In order to avoid the charge of vindictiveness, justice, equity and fair play demand that punishment must always be commensurate with the gravity of the offence charged. In the development of industrial relation norms we have moved far from the days when quantum of punishment was considered a managerial function with the courts having no power to substitute their own decision in place of that of the management. More often the Courts found that while the misconduct is proved the punishment was disproportionately heavy. As the situation then stood, Courts remained powerless and had to be passive sufferers incapable of curing the injustice. Parliament stepped in and enacted Section 11-A of the Industrial Disputes Act. It is now crystal clear that the Labour Court has the jurisdiction and power to substitute its measure of punishment in place of the managerial wisdom once it is satisfied that the order of discharge or dismissal was not justified in the facts and circumstances of the case."

In that case the delinquent was charge-sheeted for disorderly behaviour and also threatening an employee within the premises and conduct prejudicial to good order and discipline. The threatening language alleged to have been used by the worker appellant when translated is as follows : "Any other persons your father. I will make you forget your high handedness either here or somewhere else. An officer of yesterday's making discloses power consciousness." These words, according to the Enquiry Officer, would constitute misconduct within the relevant clauses of Standing Orders. Therefore after enquiry he was finally dismissed from service. While allowing the appeal the Supreme Court after discussing the purposes of introduction of Section 11-A finally came to the conclusion that :—

"A mere use of such language on one occasion unconnected with any subsequent positive action and not preceded by any blame worthy conduct cannot permit an extreme penalty of dismissal from service."

In 1989—I—L.L.J. page 71 (Scooter India Ltd., Lucknow v. Labour Court, Lucknow and others), the Labour Court having accepted the findings of the Enquiry Officer set aside the order of termination holding as not justified in the circumstance of the cases and passed an order allowing only 75 per cent of backwages. The Supreme Court while considering the powers of the Labour Court under Section 6(2A) of the I.P. Industrial Disputes Act, which is analogous to Section 11-A of the Industrial Disputes Act, has held that

"The Labour Court had exercised its powers under this Section not in arbitrary manner or in a Judicial manner."

According to the Supreme Court,

"The Labour Court has taken a view that justice must be tempered with mercy and that the erring workman should be given an opportunity to reform himself and prove to be a loyal and disciplined employee of the Petitioner-company."

Thus it is seen the Supreme Court in unambiguous terms has laid down the law that this Tribunal has wide powers to impose lesser punishments in lieu of discharge or dismissal depending on circumstances.

13. Now coming to Sastri Award Section 521(10)(c) says "in awarding punishments that is by way of disciplinary action, the authority concerned shall take into account the gravity of misconduct, the previous record, if any, of the employee and any other aggravating or extenuating circumstances that may exist." The disciplinary authority under Ex. W-9 Order says, that he looked into the past record. It has not contained any adverse remarks. But he comes to a conclusion confirming the proposed punishment of dismissal in view of the gravity of fraud committed by the Petitioner. In this connection, though the Petitioner pleaded guilty of charges including tampering with the records, no worthy document was produced before the Enquiry Officer. Even the enquiry proceedings under W-6 do not show the concerned ledger was produced but however the finding refers to production of ledger. Anyway, the question now would arise whether the Tribunal can impose lesser punishment for the reasons mentioned by the learned counsel for the Petitioner earlier. As rightly pointed out by the learned counsel for the Petitioner that in the past record there is no adverse remarks. The disciplinary authority does not appear to have taken this fact into consideration while passing the order of dismissal. It is also relevant to note that the defect was not found out by the Management. It is the petitioner, who voluntarily intimated to the Branch Manager and subsequently he also reimbursed the amount. The admission made by the Petitioner could have been taken as an extenuating circumstance. At this stage, it is necessary to mention the decision referred to in 1989-1-L.L.J. page 71 (Scooter India Ltd., Lucknow v. Labour Court, Lucknow and others) wherein the Supreme Court has categorically held that "justice may be tempered with mercy and that the erring workman should be given an opportunity to reform himself and prove to be a loyal and disciplined employee."

14. However for the act of misconduct, it cannot be justified to reinstate him with all benefits. Taking into consideration the over all circumstances in this case, the Petitioner may be reinstated without back wages but with all benefits except stoppage of one increment falling due to the date of dismissal from service without cumulative effect. Hence this point is found accordingly.

15. POINT (2).—In the result, the Respondent is directed to reinstate the Petitioner without back wages but with all benefits except stoppage of one increment falling due to the

date of dismissal from service without cumulative effect. An award is passed accordingly. No costs.

Dated, this 29th day of November, 1989.

THIRU K. NATARAJAN, Industrial Tribunal
[No. L-12012/49/87-D.II(A)]

WITNESSES EXAMINED.

For workman : W.W.1 ---Thiru. Mohammed Aslam.

For Management : None

DOCUMENTS MARKED.

For workman :

Ex W-1/4.9.84 --Letter from W.W.1 to the Management (copy)

W-2/6.9.84 -- Suspension Order issued to W.W.1 (Xerox copy)

W-3/6.9.84 --Charge sheet -do-

W-4/17.9.84 --Reply by W.W.1 to Ex.W-3 (Xerox copy)

W-5/28.9.84 --Enquiry Notice (Xerox copy)

W-6 --- -- --Proceedings and findings of the Enquiry Officer (Xerox copy)

W-7/11.1.85 --Letter from the Management to W.W.1 proposing to inflict punishment of dismissal (Xerox copy)

W-8/21.1.85 --Reply by W.W.1 to Ex. W-7 (Xerox copy)

W-9/28.1.85 --Dismissal Order (Xerox copy)

W-10/26.2.85 --Appeal by W.W.1 against his dismissal to the Chief Regional Manager of the Management (Xerox copy)

W-11/15.4.85 --Personal hearing from Appellate Authority (Xerox copy)

W-12/13.5.85 --Letter from Appellate Authority to W.W.1 enclosing decision of appellate Authority (Xerox copy)

W-13/4.6.85 --Letter from Management to W.W.1 (Xerox copy)

W-14/4.6.85 --Letter from W.W.1 to the Management (Xerox copy)

W-15/24.6.85 --- --do-

W-16/25.6.85 --Letter from Management to W.W.1 (Xerox copy)

W-17/31.8.85 --Letter from W.W.1 to the Management (Xerox copy)

W-18/9.12.85 -- --do-

W-19/18.1.86 --Letter from mother of W.W.1 to Thiru Janarthana Poojary, Minister for Finance, Govt. of India (Xerox copy)

W-20/12.2.86 --Reply by the Management to Ex. W-19(Xerox copy)

W-21/8.3.86 --Letter from mother of W.W.1 to Thiru Janarthana Poojary, Minister for Finance, Govt. of India, (Xerox copy)

W-22/6.4.86 —Xerox copy of acknowledgement from the Hon'ble Minister Thiru Janarthana Poojary (Xerox copy)

W-23/8.7.86 —Letter from W.W.1's mother to the Hon'ble Minister Thiru Janarthana Poojary (Xerox copy)

W-24/3.9.86 — —do—

W-25/10.9.86 —Petition u/s 2A of the I.D. Act filed by W.W.1 before the Regional Labour Commissioner, Madras (Xerox copy)

W-26/ — — Remarks of the Management in the Conciliation (Xerox copy)

W-27/15.11.86 Letter from W.W.1 to the Conciliation Officer (Xerox copy)

W-28/17-12-86 —Remarks of the Management in the conciliation (Xerox copy).

W-29/23-12-86 - Letter from W.W.1. to the Conciliation Officer (Xerox copy).

W-30/10-2-87 Conciliation Failure Report (Xerox copy).

W-31 —Statement of Accounts of the Management (Xerox copy).

W-32/10-9-84 —Letter from Management to W.W.1. For Management :

Ex. M-1/23-1-85 —Personal hearing with the Disciplinary Authority (Xerox copy).

M-2/24-4-85 —Personal hearing with the Appellate Authority (Xerox copy).

नई दिल्ली, 15 दिसम्बर, 1989

का. प्र. 43 —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय स्टेट बैंक के प्रबन्धन के संलग्न निजीयताओं और उनके कर्मचारियों के बीच, प्रमुख में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, नं. 2, दम्बई के पंचद को प्रकटित करती है, जो केन्द्रीय सरकार को 14 दिसम्बर, 1989 को प्राप्त हुआ था।

New Delhi, the 15th December, 1989

S.O. 43.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Central Government Industrial Tribunal No. 2 Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 14-12-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri P.D. Apshanker, Presiding Officer,

Reference No. CGIT-2/27 of 1987

PARTIES :

Employers in relation to the management of State Bank of India.

AND

Their Workmen

APPEARANCES :

For the Employers—Shri S. S. H. Kazi, Advocate.

For the workmen—1. Shri Subodh Dharmadhikari, Advocate.

2. Shri Rohit Deo, Advocate.

INDUSTRY : Banking.

STATE : Maharashtra

Bombay, dated the 22nd November, 1989

AWARD

The Central Government by their Order No. L-12012/213/86-D.II(A) dated 16-4-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947:—

“Whether the action of Regional Manager IV State Bank of India Pune in dismissing Shri M. V. Humbre, Clerk from the Bank's service w.e.f. 3-6-83 is legal and justified? If not, to what relief the workman concerned is entitled?”

The case of the workman Shri M. V. Humbre, as disclosed from the statement of claim (Ex. 2/W) filed by the State Bank Workers Organisation, on his behalf, in short is thus:—

Shri M. V. Humbre, employed as a clerk in the State Bank of India, Satara Branch was chargesheeted by the management of the State Bank of India Pune on 27-5-1982. In substance, it was alleged against him that he was responsible for promoting Diwali Fund, i.e., Sahakari Diwali Fund in the year 1975, that he had collected contributions/deposits from the members of the staff, and that he misappropriated amounts collected by him. It was further stated in the chargesheet that in case the charges were held proved, then the workman had engaged in trade or business outside the scope of duties except with the previous permission of the Bank, and was doing act prejudicial to the interests of the Bank. The workman by his reply denied all the allegations made against him, and stated that the alleged acts did not constitute any misconduct on his part. He had also denied the charges levelled against him. Thereafter an enquiry was conducted against him. However, the rules of natural justice were not followed in that enquiry and no proper opportunity was given to him to defend himself. Some witnesses were examined on behalf of the Bank management. Even though the said workman did not offer himself as a witness, the Enquiry Officer himself cross-examined him. This itself vitiated the whole enquiry. After completion of the enquiry, the Enquiry Off-

cer submitted his report. His findings are perverse. He held the charge of misappropriation proved. On the basis of the Enquiry report a show cause notice was issued to the workman to show cause why he should not be dismissed from service of the Bank. The workman replied to it. Finally, the punishment of dismissal from service was imposed upon him on 16-8-1984 by the Disciplinary authority. Against that order, the workman filed an appeal before the Appellate Authority. At the time of hearing of the appeal, the workman was not allowed to be represented by the representative of his choice before the Appellate authority. Hence a written note of argument was filed before the appellate authority. The said appeal was dismissed by the Appellate authority and the workman was informed about the dismissal of the Appeal by letter dated 30-8-1985. However, no copy of any speaking order of that Appeal was furnished to him. The said dismissal is unjust, improper and illegal. In the said enquiry copies of the necessary documents relied upon by the management and the copies of enquiry proceedings were not supplied to him. In the enquiry proceedings, the Enquiry Officer relied on certain statements made beyond the enquiry by some of the officers, none of whom was examined as a witness during the enquiry. The Enquiry Officer relied upon some alleged statement made by the workman. However, the workman admits that under pressure, and in an improper state of mind, he made certain statements. Even assuming that the charges were proved against him, the punishment of dismissal is disproportionate to the charges levelled against him. Chargesheets were issued against two other similar employees also, and only the punishment of stoppage of two increments was imposed on them. The entire matter of disciplinary action against the workman was controlled at all times by the Central office of the Bank. The Appellate authority did not take any independent decision and abided by the decision of the Central Office. The said Union, therefore, prayed that the order of dismissal be set aside and the said workman be directed to be reinstated in service with full back wages and continuity of service.

3. The Regional Manager (IV) of the State Bank of India, Pune Region, by his written statement (Ex. 3/M) contested the claim of the Union, and in substance contended thus:—

The workman Shri M. V. Humbre, while working as a clerk at the Bank's Central Office, had floated a Sahakari Diwali Fund in 1975 in association with other two colleagues. The funds were collected by way of contributions and deposits from the members of staff and some loans were granted to staff members. These activities came to the notice of the Bank in 1982. Thereafter, preliminary investigations were carried out by the Bank and the workman was placed under suspension with effect from 9-6-1982. He was then served with a chargesheet. In substance it was alleged that he was responsible for promoting a Diwali Fund i.e. Sahakari Diwali Fund in 1975, in association with other two colleagues. The funds were collected by way of contributions/deposits from the members of the staff without obtaining prior permission of the Bank and he had misappropriated the amounts and had become heavily indebted to the members of staff. Thereafter, a departmental enquiry was started against the workman, and in that enquiry full and fair opportunity was given to the workman to defend himself. The Enquiry Officer held the charges levelled against the workman duly proved. Thereafter a show cause notice was issued to him to show cause why he should not be dismissed from service. The Disciplinary authority imposed the punishment of dismissal from service upon the workman, against the order of dismissal the workman filed an appeal before the Appellate authority. A personal hearing

was given to the workman by the Appellate authority. The Appellate authority dismissed the appeal. The punishment of dismissal from service passed against him was just and proper, as the Bank management had lost confidence in him. That punishment was just and proper, taking into consideration the gravity of the misconduct committed by the workman. The Bank management, therefore, prayed for the dismissal of the prayer of the Union.

4. On these pleadings, the Issues framed at Ex. 5 are:—

- (1) Whether the inquiry against the workman Shri M. V. Humbre was not held properly and the rules of natural justice were not followed?
- (2) Whether the appeal filed by the workman against the order of dismissal passed by the Management, was not heard properly by the Appellate Authority?
- (3) Whether the action of Regional Manager-IV, State Bank of India Pune in dismissing Shri M. V. Humbre, Clerk from the Bank's service w.e.f. 3-6-1983 is legal and justified?
- (4) If not, to what relief the workman concerned is entitled?
- (5) What Award?

5. My findings on these Issues are :—

- (1) Held properly
- (2) Heard properly
- (3) No
- (4) As per order below.
- (5) As per order below.

REASONS

ISSUE NO. 1.

6. In this case the workman Shri Humbre filed his affidavit in support of his case at Ex. 15/W and filed the affidavit of one Shri Chandrakant P. Purohit at Ex. 19/W. Both these witnesses were cross-examined on behalf of the Bank. No oral evidence was led on behalf of the management. According to the workman, the enquiry held against him was not held properly and the rules of natural justice were not properly followed. I find that there are no serious infirmities in the enquiry proceedings which would set aside the enquiry proceedings. It is seen that after the chargesheet was issued to the workman, he was given an opportunity to file his say to it. His reply to the chargesheet is at Ex. 7/W. The copy of the enquiry proceedings is at Ex. 16/W. From it, it is seen thus :—

The Enquiry Officer had asked the workman whether he had received the copy of the chargesheet and he replied in the affirmative. The Enquiry Officer then asked the workman whether he wanted to be defended in the enquiry proceedings by any defence counsel, and the workman replied that he himself would conduct the case. Thereafter six witnesses were examined on behalf of the Bank management.

It is seen that opportunity was given to the workman to cross-examine those witnesses. However, it is seen that the workman did not cross-examine any of those witnesses. Thereafter, the Enquiry Officer heard the workman and then submitted his enquiry report.

7. According to the workman, the enquiry proceedings suffer from two defects. In his affidavit he stated that copies of certain documents relied upon by the Bank management were not supplied to him. He denied the suggestion that the enquiry proceeding copies were supplied to him. Those documents related to the statements of persons like S/Shri Pawar, Yadav etc. who had taken part in the formation of the Diwali Fund and the statements of depositors etc. The other infirmity urged by the workman is that after the witnesses for the management were examined, he himself did not offer himself as a witness, but even then the Enquiry Officer started examining him. It is

seen from the enquiry proceedings that after the evidence of six witnesses for the management was over, the Enquiry Officer started asking questions to the workman and he gave the necessary replies. In my opinion, the Enquiry Officer himself should not have asked the questions in details to the workman. At the most the Presenting Officer of the Bank management should have asked the necessary questions to the workman. Even then I find that because of these two infirmities, the whole of the enquiry proceedings cannot be set aside as the enquiry was conducted properly regarding the matter in question. Issue No. 1 is, therefore, found accordingly.

ISSUE NO. 2

8. According to the workman, the Disciplinary Authority passed an order of dismissal from service against him and that against that order he filed an appeal to the Appellate authority, but the Appellate authority did not hear appeal properly. It is seen from the cross-examination of the workman that he wanted to be represented by Shri S. P. Chaudhari before the Appellate Authority. The Appellate authority did not allow Shri Chaudhari to represent the workman before him. It is further seen from the cross-examination that in the Appellate proceedings the workman was allowed to be represented by one Shri Padalikar, who was the representative of the State Bank Union. The workman admitted in his cross-examination that the Union to which the above said representative belong was not a recognised Union. Therefore, Shri Chaudhari was not allowed to represent the workman. Even then it is an admitted fact that the workman was represented by Shri Padalikar. As such it cannot be said that the Appellate authority did not hear the appeal properly. Issue No. 2 is, therefore, found accordingly.

ISSUE NOS. 3 AND 4

9. I have gone through the report of the Enquiry Officer (Ex. 8/W). He held all the charges levelled against the workman duly proved. Certain two documents concerning the Enquiry proceedings are relevant. Ex. 7/W is a copy of the reply given by the workman dated 25-6-1982 to the Regional Manager of the Bank, Pune. In his reply the workman stated, "it is true that I did promote the fund in the bank, but that was done in my ignorance and I, therefore, pray that I may be excused". According to the workman, he made such a statement as he was given an assurance that in case he would make such a statement, a lenient view would be taken in the matter. I am unable to accept this contention of the workman. The other document is at Ex. 18/M. This letter dated 30-7-1982 is addressed by the workman Shri Humbre to the Chief General Manager of the Bank. In this letter also the workman admitted, "I along with Shri S. R. Pawar were promoters of Sahakari Diwali fund, and as on today Rs. 45,000 are payable by me to the members of depositors to the Fund, and that I undertake to repay the Bank the said amount of Rs. 45,000 only plus other deficit, if any, to the Bank through my monthly salary, payable to me by Bank by monthly instalments of Rs. 400 each". According to the workman, this letter was also given by him to the Chief General Manager, as a similar assurance, as above, was given to him. The workman's witness Shri Chandrakant P. Purohit (Ex. 19/W) stated in his affidavit that he was given an assurance by the Enquiry Officer and the Presenting Officer that if Shri Humbre would give a statement as above, a lenient view would be taken in the matter, and the proceedings against him would be dropped. I am unable to accept this contention of the workman and his witness. I find that both the said documents were voluntarily executed by the workman, and that he voluntarily admitted to have floated the Diwali Fund, and that a sum of Rs. 45,000 was found due to the depositors, and that the necessary amounts were not refunded to the depositors.

10. On the basis of this fact that the workman Shri Humbre owed a sum of Rs. 45,000 to the depositors, who were the employees of the Bank, the punishment of dismissal from service was passed against him. I find that this punishment is disproportionate to the charges levelled against him. It is seen from the record that certain two other persons,

namely, Shri C. D. Yadav and Shri V. B. Yadav were also charge-sheeted by the Bank management for floating Diwali Fund, that the enquiry was held against them also, that they were found guilty in the enquiry proceedings, but the only punishment awarded against them, was stoppage of one or two increments. In the present case, the workman Shri Humbre has been dismissed from service. According to the Bank Management, the Bank management had lost confidence in the workman Shri Humbre, and as such there was no other alternative but to dismiss him from service. In this connection reliance was placed on behalf of the Bank management upon the judgment in the case between Bank of India and Shri Sudhir Vishnu Panwalkar, reported in 1985 Bank J. 456 (Bombay High Court). It was held therein that the Bank had lost confidence in the employee who had misappropriated an amount of Rs. 3 lakhs 59 thousands concerning Co-operative Housing Society. This misconduct of the employee was outside the Banking business. However, it was held therein that the reputation of the Bank depend upon its employees, and such a reputation on many occasions emanates not only from the conduct of the employee who the bank, but also his conduct with other persons. It was held therein that the termination of service was not by way of punishment, but due to loss of confidence. On the other hand reliance was placed on behalf of the workman on two other cases of the Supreme Court. It was held in the case between Dalbir Singh and Director General, CRPF, New Delhi reported in 1987 (Supp) Supreme Court Cases 466, that Supreme Court directing that its decision given on the peculiar facts of the case be not treated as a precedent. The material observations are to be seen from para. 7 of the judgment, which runs thus:

"We wish to emphasise that the charge of a member of the Central Reserve Police Force being found in a state of intoxication while on duty is serious enough to merit dismissal from service, and this order shall not be treated as a precedent."

In the case of Sengara Singh and others, etc. vs. the State of Punjab and others, reported in AIR 1984 Supreme Court 1499 (1983 Lab. 11 C. 1670), the State of Punjab had dismissed about 1100 members of the Police Force on the ground that they had participated in an agitation which was impermissible under the rules governing the discipline in the Police Force. Later on 1000 members were reinstated in service and the remaining were not reinstated. It was held therein that there was discrimination in the matter of punishment and that the remaining 100 Police-men were also entitled to reinstatement in service. In the case of Iron and Metal Traders Pvt. Ltd., Bombay Vs. M. S. Hasel and another, reported in AIR 1984 Supreme Court 629 (1984 Lab. 1 C. 182), certain workmen dismissed for going on strike were reinstated by the management. However, certain others 10 workmen were not reinstated. It was held therein that there was discrimination against the 10 workmen, and the Award of the Industrial Tribunal ordering reinstatement or compensation in respect of the 10 workmen was just and proper. The last case relied upon by the workman is Indian Express and Chronicle Press Vs. M. C. Kapur, reported in (174) 4 Supreme Court Cases 848. In this case the question was regarding the misconduct in employment concerning Standing orders, and whether standing orders extend over co-operative society and its employees, and whether the employer can take action regarding misconduct in respect of such activities of the Society. In this case, the Industrial Tribunal refusal to approve dismissal of such a workman was approved by the Supreme Court. In the light of the above cited decided cases of High Court of Bombay and the Supreme Court and in the circumstances of the present case, I find that the order of dismissal from service of the workman Shri Humbre is too harsh and a severe one. The quoting of the Diwali Fund was not an act connected with the actual banking work to be performed from day to day. It was rather outside the working jurisdiction of the Bank business. Therefore, even though the said workman had collected the amounts from different members and officers of the Bank to the extent of Rs. 45,000 and had not returned the amounts to them, the work was not concerning with the actual Bank duty. Further it is seen that no criminal case was lodged against him regarding the misappropriation of the fund.

11. In the result, I find that the action of the Bank management in dismissing the said workman from service is not just and proper. Issue No. 3 is found in the negative. Some lesser punishment should have been inflicted by the Bank management. Now, the relief to be granted to the workman is to reinstate him in service with continuity of service, but without back wages. He was dismissed from service in June, 1983. Therefore, the loss of pay of 6-1/2 years shall be a sufficient punishment for him. The punishment of stoppage of two increments will not be a sufficient punishment for him. On the contrary, the punishment of dismissal from service is too harsh a punishment, taking into consideration the fact that the said misconduct was outside the scope of the actual working of the Bank. Hence, the relief as above, is being granted to him. Issue No. 4 is found accordingly. Hence, the following Award is passed.

AWARD

The action of the Bank management in dismissing the workman Shri M. V. Humbré from service, is not just, proper and legal.

The punishment of dismissal imposed upon him is hereby set aside. The Bank management is hereby directed to reinstate the said workman in service within two months from the date of publication of this Award, with continuity of service, but without back wages.

The parties to bear their own costs of this Reference.
22-11-89.

P. D. APSHANKAR, Presiding Officer
[No. L-12012/213/86-D.II(A)]
S. C. SHARMA, Desk Officer

नई दिल्ली, 13 दिसम्बर, 1989

का. आ. 44. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओ. एन. जी. सी., देहरादून के प्रबन्धन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-89 को प्राप्त हुआ था।

New Delhi, the 13th December, 1989

S.O. 44.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of ONGC, Dehradun and their workmen, which was received by the Central Government on 12-12-89.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, KANPUR

Industrial Dispute No. 153 of 1989

In the matter of dispute between :

Sanjai Singh, Vill Phamberpur, AK Diya Tea Estate,
P.O. Premnagar, Dehradun.

AND

The Chairman, ONGC, Jai Bhawan, Dehradun.

AWARD

1. The Central Government, Ministry of Labour vide its notification no. L-30012/5/89 IR (Misc.) dt. 6-6-89 has made the following reference for adjudication to this Tribunal:

Kya ONGC ke Prabandh dwara Shri Sanjai Singh da-
mik vetan bhogi mazdoor ko dinak 22-2-1988 se

nishkashit karna uchit hai? Yadi nahi to karmkar
kis anutosh ka adhikari hai?

2. In the present case 4-9-89 was the third date for filing of the statement of claim on behalf of the workman. Prior to it dates 10-7-89 an application for adjournment was moved by one Shri M. S. Bhandari on behalf of the workman but as the date had already been fixed as 12-7-89, it was ordered that the same be put up 12-7-89. On 12-7-89, the case was adjourned to 4-9-89. On 4-9-89, Shri V. K. Gupta appeared for the management and none appeared in the case on behalf of the workman. There is also no application on behalf of the workman to adjourn the case. However in the interest of justice the case was adjourned to 28-9-89 with the direction that the case cannot be allowed to linger on in this way and 28-9-89 will be the last opportunity for filing of the claim statement.

3. On 28-9-89 neither any one appeared from the side of the workman nor there is any application on his behalf for adjournment. As such it appears that he is not interested in prosecuting the case any more. Therefore, a no claim award is given in the case against the workman.

4. Reference is answered accordingly.

Dt. 29-9-89.

ARJAN DEV, Presiding Officer
[No. L-30012/5/89-IR (Misc.)]

का. आ. 45. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओ. एन. जी. सी., देहरादून के प्रबन्धन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-89 को प्राप्त हुआ था।

S.O. 45.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of O.N.G.C. Dehradun and their workmen, which was received by the Central Government on 12-12-89.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
KANPUR

I. D. No. 102/89

In the matter of dispute between :

Shri Prem Nath Joint Secretary ONGC Karamchari
Union 87-1/1 Ballupur Dehradun-248001.

AND

The Additional Director (Transport) ONGC Tel Bhawan
Dehradun.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-30011/7/89-II (Misc.) dated 27-4-89 has made the following reference for adjudication to this Tribunal :

Whether the action of the management of ONGC Dehradun in not regularising and terminating the services of S/Shri Ravi Kumar Sharma, son of Shri B. M. Sharma, Balwant Singh son of L. Shri Ajit Singh, Bhagwan Das son of L. Shri Raja Ram and Rajender Singh s/o Shri Shyam Singh, Driver w.e.f. 1-11-87 is justified ? If not to what relief the concerned workmen are entitled ?

2. In the present case, the first date for filing of the statement of claim on behalf of the workmen was 25-5-89 and on that date Shri V. K. Gupta appeared for the management and one Shri Ravi Kumar Sharma appeared for the workmen. The case was adjourned on the oral prayer of Shri Sharma to 10-7-89 for filing of the claim statement. On 10-7-89 one Shri M. S. Bhandari appeared in the case on behalf of the workmen and moved an application for adjournment. The case was again adjourned to 6-9-89 for filing of the statement of claim. On 4-9-89 the case was adjourned to 28-9-89 on the basis of a telegram received in the office sent by Shri M. S. Bhandari on the ground of illness, with the direction that the case cannot be allowed to linger on in this way. A final notice to this was also sent to the Union/Shri M. S. Bhandari making it clear that the date i.e. 28th September, 1989 shall be the final opportunity.

3. On 28-9-89, Shri V. K. Gupta appeared for the management but none appeared for the workmen. A telegram for adjournment was received in the office but no grounds for adjournment were stated in it. Since it had already been made clear that no further opportunity would be allowed payer for adjourned was disallowed.

4. Thus it appears that the workmen are not interested in prosecuting the case any more. As such a no claim award is given against them.

5. Reference is answered accordingly.

ARJAN DEV. Presiding Officer

[No. L-30011/7/89-IR (Misc.)]

क्र. प्र. 46.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मद्रास पोर्ट ट्रस्ट मद्रास के प्रबन्धन के सम्बद्ध निोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचाद की प्रकृति करता है, जो केन्द्रीय सरकार को 11-12-89 को प्राप्त हुआ था।

S.O. 46.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Madras Port Trust, Madras and their workmen, which was received by the Central Government on 11-12-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU MADRAS-104

Wednesday, the 22nd day of November, 1989

Industrial Dispute No. 49 of 1987

(In the matter of dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the Management of Madras Port Trust, Madras-1)

Between the workman

Shri S. Kistan, 340, VOC Nagar 'B' Block, Tondiarpet, Madras-600081.

AND

The Chairman, Madras Port Trust, Rajaji Salai, Madras-600001.

REFERENCE :

Order No. L-33012/4/86-D.IV (A), dated 1-5-87 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Thursday, the 16th day of November, 1989 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the argument of Tvl. R. Ganesan, S. Sathyamoorthy and R. Gowthaman, Advocates appearing for the workman and of Tvl. A. L. Somayaj and R. Arumugam, Advocates appearing for the Management and this dis-

pute having stood over till this day for consideration, this Tribunal made the following :

AWARD

This dispute between the workman and the Management of Madras Port Trust, Madras arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-33012/4/86-D.IV (A), dated 1-5-87 of the Ministry of Labour for adjudication of the following issue :

“Whether the action of the Management of Madras Port Trust, Madras in dismissing Shri S. Kistan, Syrang from service with effect from 19-6-85 is justified ? If not, to what relief the workman concerned is entitled ?”

2. The claim Petition averments are the Petitioner was employed as Syrang in the Madras Port Trust for nearly 24 years. The vessel Venture had some defects and not full rectified. The Petitioner noticed on 20-3-85 the defect in the asteron continued. The defect as temporarily rectified. The Petitioner also informed the dock masters about the condition of the launch, who advised him to adjust somehow and complete the work. Subsequently he brought the launch to the signal station and informed about the condition to the signal man for necessary repairs. He was advised to take the crew to the container berth at the Jawahar Dock. While the petitioner was coming to the signal station on a very slow speed, the launch did not work properly and dashed against the wall resulting in the damage to the craft. The Petitioner had to jump into water to save his life. Though he sustained injuries to the knee and leg, the Lasker also sustained injury. This accident occurred on 20-3-85 due to some mechanical defect and not due to the negligence of the Petitioner. Subsequently charge memo was issued and after domestic enquiry, the Petitioner was dismissed from Service. The Petitioner submits that there was no evidence in the enquiry to show the accident was due to negligence. The finding of the Enquiry Officer that the accident was premediated and well executed plan of action is perverse. The Enquiry Officer has taken into consideration of certain record which were not produced before the enquiry. No opportunity was given to the Petitioner to peruse these records. The Petitioner should not have been examined at the commencement of the enquiry, which is violative of the principles of natural justice. The Complainant has not been examined. Hence the enquiry is biased. Hence the present claim petition.

3. The Respondent in the counter statement states the Petitioner committed a serious offence causing severe damage to the craft and therefore a charge-sheet was framed for the offence under Section 42-C (vi) of the Standing Orders of the Port of Madras. On that, enquiry was conducted. The Petitioner was given all the opportunities by Enquiry Officer and the Enquiry Officer gave a finding against the Petitioner. Accepting his finding Second Show Cause Notice was issued fixing the personal hearing. But he did not turn up for personal hearing. Hence after considering the past records, he was dismissed from service. His appeal to the Appellate Authority was also dismissed. It is in correct to state that the launch was put out of commission due to defects. The launch was taken on the advise of the Marine Engineer is in correct. If the launch was in a defective condition, no worker could take the launch to commission. No Dock Master advised the Syrang to adjust somehow and complete the work. The launch was in good condition. The launch had hit the wharf and crew were thrown out. The Syrang would have been more careful. The Lasker as well as the Petitioner narrowly escaped. The Petitioner though was examined first in the enquiry, no objection was raised by him and no prejudice was caused to him. Hence the principle of natural justice was not violated. It is incorrect to state that no opportunity was given to the Petitioner to peruse the records. The punishment of dismissal from service was not too severe and disproportionate to the charges proved. It is a proved misconduct coming under the Clause 42(C)(vi) of the Standing Orders of the Port Trust of Madras. If the Tribunal comes to a conclusion, that the enquiry is not fair and proper, then an opportunity may be given to this Respondent to lead fresh evidence. The claim of the Petitioner may be rejected.

4. The points for determination are :

(1) Whether the action of the Management in dismissing the Petitioner from service is justified ?

(2) To what relief ?

5. Exs. W-1 to W-11 and M-1 to M-18 were marked on either side. MW-1 and MW-2 were examined on the side of the Respondent-Management. No oral evidence was adduced on the side of the Petitioner.

6. Point (1) : The Petitioner has been charge-sheeted under Ex. M-3 that on 20-3-85 during first shift the Launch M. L. Venture under his charge met with an accident causing severe damage to the craft. As per Ex. M-3 the alleged misconduct falls under Section 42C(vi) of the Standing Orders namely wilful damage to work in progress or property. The learned counsel for the Petitioner even before going into the merits of the case contended that the very charge itself has no basis since the misconduct alleged under 42-C(vi) related to wilful damage to work in progress or property, whereas the charge simply reads 'causing severe damage to the craft'. In other words, the charge does not refer to any wilful damage to work in progress or the property by reason of negligence of the Petitioner. It is relevant to note as rightly pointed out by the learned counsel for the Petitioner, the charge nowhere refers to even the negligence much less wilful negligence of the Petitioner. It is urged that even on the basis of the charge, the case has to be thrownout. At any rate, according to the learned counsel for the Petitioner, the charge should have been under 42-A(ii) of the Standing Order namely 'negligence in work or neglect of work'. For the misconduct, the punishment imposed is only minor and not dismissal. Anyway, the charge itself has not been properly framed as to whether the misconduct alleged falls under 42-A(ii) or 42-C(vi). However the reference is under 42-C(vi) of the Standing Order.

7. Hence it remains to be seen whether the Respondent had established the charge. In this connection, the Respondent examined two witnesses of whom MW-1 Balasubramaniam, Assistant Marine Engineer, who was in charge of the Launch since, 1985. He would state entries will be made in the log book one very shift regarding the maintenance of launches. His version is that M. L. Venture was put on commission only after rectifying the defects point out by the crew. According to him on 20-3-85 that M.L. Venture was on working condition. While so at about 1 p.m. he got information about the accident of M.L. Venture and he went to and met the Petitioner in the hospital, who said that the accident took place due to the failure of astern in the gear box. He would assert in the chief examination that after returning from hospital he checked the astern, which was working properly. In effect his evidence is that the accident was not due to operational mistake of the Petitioner. In the cross-examination he would admit and also can be seen from log book, Ex. M-12 to M-16 that log books are maintained by Syrang and drivers and they contain entries relating to detailed repairs. It is seen from those log book there were defects, which were rectified. Even though those log books would refer to repairing of the same, it cannot be denied that there were defects on those days even a day prior to launching of the vessel on 20-3-85. MW 1 would further admit that he did not know what were the repairs carried out on 20-3-85 while commissioning the vessel. It is also admitted by him that at the time of inspection after the accident, lever in the gear box was in the astern position to show that the petitioner has attempted to avoid the accident. According to him there was no anchor in the launch and there were no safety fender at the point of the accident. His further evidence is that at that place number of accidents have taken place but he does not know whether action has been taken against those persons. To a question whether Ashok Balram, who was involved in an accident causing several lakhs of rupees, was not dismissed, he would deny the knowledge to the effect. He cannot say whether the engine log book, dock log book for 20-3-85 was available in the office or not. Thus it is seen he would state that the launch was repaired and sent for commission. He would concede that the Petitioner has made attempts to avoid the accident. Above all he has no stage had stated that the accident was due to the negligence of the Petitioner and therefore wilful damage has been caused to the launch except stating that due to the operational mistake the accident has took place. It is also significant to note that he 3655 GI/89-9

did not choose to examine the other crew of the Venture to find out the actual cause of the accident.

8. MW-2 is one Muthuraman, Assistant Engineer working under MW-1. He would speak to on hearing of the accident from signal station for the M.L. Venture on 20-3-85 at about 1 p.m. he went to the signal station and checked the launch and he found the gear box control working alright. In the cross-examination, he admitted the astern was in the reverse position to stop the launch. He has also stated he does not know on what speed the launch was going. According to him if the oil level is low, the gear box will not work properly. He could also state before the Enquiry Officer that there is leakage of oil in gear box. According to the Petitioner there was some leakage of oil in the gear box, which invariably reduced the oil level in the gear box and consequently the gear box will not work properly. It is seen from his evidence also that the Petitioner had made attempts to stop the launch. Even this witness does not refer to that damage was use to operational mistake of the Petitioner. He has also not spoken to the negligence on the part of the Petitioner. A close scrutiny of evidence of MW-1 and MW-2 would show that the accident was not caused due to the negligence on the part of the Petitioner muchless wilful negligence. It is further clear as can be seen from the log books Ex. M-12 to M-18 that the steering was not working properly and everything is not alright in launch. There is also entry in the log book on 15-3-85 about the leakage of gear oil at the gear pressure gauge. Of course, it is the case of the Respondent the defects in the log book were rectified when the venture was commissioned for operation. The fact that even on the prior day the launch had defects. The case of the Petitioner that the accident was due to failure of the astern. More probably in view of the evidence of MW-2 that leakage of oil in the gear box, which reduced the oil level and consequently caused the failure of astern. It has been abundantly proved by the evidence of the Respondent the accident was not due to the operational mistake by the petitioner but only due to some mechanical defect. Even assuming the accident was due to the mistake on the part of the Petitioner, it cannot be said it is merely due to negligence of the Petitioner. At the risk of repetition it has to be pointed out that at no stage neither MW-1 nor MW-2 referred to that the accident was due to wilful negligence of the Petitioner and the Petitioner caused wilful damage. While so it is curious that the Enquiry Officer has come to a conclusion that on the basis of the evidence 'the accident is not really an "accident" but a premeditated and well executed plan of action'. The Enquiry Officer further says that the Petitioner's mind ran riot and manouevred the launch in such a vicious manner that he himself was exposed to extreme danger of being crushed between the steering console and the engine-casing.

9. It is astonishing to note that on what material, the Enquiry Officer has come to such a conclusion. It is also significant to note that the Petitioner himself has been injured in the accident. It is not the case of the Respondent, even before this Tribunal that the Petitioner manouevred the launch in such a vicious manner leading to an accident. In short, the finding of the Enquiry Officer is merely on the basis of assumption and taking into consideration the extraneous facts. In other words, he has based his conclusion not on the materials placed before him but according to his own way. In fact he has nowhere discussed the evidence and came to a conclusion. I have no hesitation in coming to a conclusion that the finding of the Enquiry Officer cannot but be perverse. Consequently the order of termination Ex. M-11 based on the finding of the Enquiry Officer has necessarily to be set aside. For these reasons, it has to be found that the action of the Management in dismissing the Petitioner from service is not justified. Hence this point is found in favour of the Petitioner.

10. Point (2) : In the result the Respondent is directed to reinstate the Petitioner with backwages and with continuity of service and all other attendant benefits within one month from the date of publication of this award in gazette.

Dated, this 22nd day of November, 1989.

K. NATARAJAN, Industrial Tribunal
[No. 33012/4/86-D.IV (A)/D.III (B)]
WITNESSES EXAMINED

For Workman—None.

For Management—MW-1—Thiru S. Balasubramanian.

MW-2—Thiru R. A. Muthuraman.

DOCUMENTS MARKED

For workman :

- Ex. W-1/24-4-85—Representation of workman to the Management (Xerox copy)
- Ex. W-2/6-5-85—Representation of workman to the Management (Xerox copy)
- Ex. W-3/7-5-85—Representation of workman to the Management (Xerox copy)
- Ex. W-4/22-5-85—Representation of workman to the Management (Xerox copy)
- Ex. W-5/18-6-85—Representation of the workman to the Management (Xerox copy)
- Ex. W-6/27-6-85—Appeal made by the workman against his dismissal order to the Chairman, Madras Port Trust, Madras (Xerox copy)
- Ex. W-7/20-12-85—Reminder letter from the workman to the Chairman, Madras Port Trust, Madras (Xerox copy)
- Ex. W-8/3-2-86—Reply by the Management to the letter of Thiru S. Kistan (Xerox copy)
- Ex. W-9/15-10-85—Dismissal of appeal made by the workman (Xerox copy)
- Ex. W-10/3-3-86—Petition u/s 2-A of the I. D. Act raised before the Regional Labour Commissioner, Madras (Xerox copy)
- Ex. W-11/6-6-86—Letter from the workman to the Regional Labour Commissioner, Madras (Xerox copy)
- For Management :
- Ex. M-1/20-3-85—Inspection Report of Thiru M. Swaminathan, Engineer (Xerox copy)
- Ex. M-2/29-3-85—Explanation by the workman to the Management (Xerox copy)
- Ex. M-3/11-4-85—Charge Sheet issued to the workman (Xerox copy)
- Ex. M-4/18-5-85—Proceedings of the Enquiry Officer (Xerox copy)
- Ex. M-5/20-5-85—Proceedings of the Enquiry Officer (Xerox copy)
- Ex. M-6/21-5-85—Proceedings of the Enquiry Officer (Xerox copy)
- Ex. M-7/30-5-85—Findings of the Enquiry Officer (Xerox copy)
- Ex. M-8/31-5-85—Second Show cause notice issued to the workman (Xerox copy)
- Ex. M-9/6-6-85—Representation of the workman to the Management (Xerox copy)
- Ex. M-10/10-6-85—Reply by the Management to Ex. M-9 (Xerox copy)
- Ex. M-11/9-6-85—Dismissal order with particulars of the workman (Xerox copy)
- Ex. M-12/13-3-85—Pages 182 and 184 of the Log Book (Xerox copy)
- Ex. M-13/14-3-85—Page 185 of the Log Book (Xerox copy)
- Ex. M-14/17-3-85—Page 195 of the Log Book. (Xerox copy)
- Ex. M-15/18-3-85—Pages 2, 3 and 5 of the Log Book (Xerox copy)
- Ex. M-16/19-3-85—Pages 7, 8 and 9 of the Log Book (Xerox copy)
- Ex. M-17/20-3-85—Pages 52 and 53 of the Disposition Book (Xerox copy)
- Ex. M-18/20-3-85—Page 87 of the Launch Log Book (Xerox copy)

का. आ. 47.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कर्मचारी राज्य

कोषा नियम, कानपुर के प्रबन्धन के सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद के केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-89 को प्राप्त हुआ था।

S.O. 47.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employees in relation to the management of Employees State Insurance Corporation, Kanpur and their workmen, which was received by the Central Government on 12-12-89.

ANNEXURE

BEFORE SHRI ARIAN DEV PRESIDING OFFICER
CENTRAL GOVT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, PANDU NAGAR, KANPUR

I.D. No. 15 of 1989

In the matter of dispute between :

The President
ESIC Employees Union U.P. Reigon
309/10 Shastri Nagar, Kanpur, U.P.

And

The Regional Director
ESIC Sarvdaya Nagar, Kanpur.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-15012/2/87-D II(B)/D.III(B) dt. 18-1-89, has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Employees State Insurance Corporation, Kanpur in reverting Shri B. N. Singh, from the post of UDC to the post of LDC w.e.f. 12-3-83 is justified? If not to what relief the concerned workman is entitled ?

2. In the present case the first date for filing claim statement was 24-2-89. Thereafter several dates were fixed for filing claim statement but the opportunities so given were not availed of. Some time it was said that copy of reference order was not received and some time it was said that the copy of it be issued free of cost. On 4-7-89, it was specifically ordered that copy of reference order might be obtained on payment of prescribed charges. Thus it is clear that the said Union is not interested in the reference.

3. Thus a no claim award is given against the Union in the light of discussions made above.

ARIAN DEV, Presiding Officer
[No. L-15012/2/87-D. II(B)/D. III(B)]

नई दिल्ली, 14 दिसम्बर, 1989

का. आ. 48.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार म. एम. पी. स्टेट माइनिंग कॉर्पोरेशन लि., यतना (म. प्र.) के प्रबन्धन के सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-12-89 को प्राप्त हुआ था।

New Delhi, the 14th December, 1989

S.O. 48.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. M. P. State Mining Corporation Ltd., Satna (M.P.) and their workmen, which was received by the Central Government on 13-12-89.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAALPUR (M.P.)

Case No. CGIT/LC(R):33 of 1985

PARTIES :

Employers in relation to the management of M.P. State Mining Corporation Limited, Satna and their workmen Sarvashri Lal Bahadur Singh, Laxeshwar Singh, Shiv Kant Pandey and Ram Kishore Paramar, represented through the General Secretary, Satna Stone & Lime Workers Union, 79/10, Krishna Nagar, Satna (M.P.).

APPEARANCES :

For Workmen/Union—Shri C. S. Tiwari, General Secy.
For Management—Shri B. S. Bisen, Advocate.

INDUSTRY : Mining DISTRICT : Satna (M.P.)

AWARD

Dated : December 1st, 1989

By Notification No. L-29012(40)/84-D.III(B) Dated 27th April, 1985 the Central Government, Ministry of Labour, has referred the following dispute to this Tribunal, for adjudication.—

“Whether the action of the management of Messrs M.P. State Mining Corporation Limited, Satna (M.P.) in suspending Sarvashri Lal Bahadur Singh, Laxeshwar Singh, Shiv Kant Pandey and Ram Kishore Paramar for the period from 19-10-82 to 16-2-1983 and also not paying them wages for the said period of suspension is justified? If not, to what relief are the workmen concerned entitled?”

2. On receipt of the reference parties filed their respective statement of claim and the case was fixed for filing of rejoinder and documents by the parties. On 4-3-1986, Counsel for management wanted time to settle the matter out of the Court and file the same before this Tribunal which was allowed. On 8-4-1986 Shri Bisen, Advocate, filed settlement in respect of three workmen and again sought time to file the settlement in respect of the other workman. The case was then fixed for filing of settlement and objections, if any, by the workmen representative.

3. In brief the case of the workmen concerned is that they were employees of the management, M.P. State Mining Corporation Ltd. Satna. They were suspended with effect from 19-10-1982 to 16-2-1983 against the charge of misconduct. After a domestic enquiry all the four workmen were reinstated by the management. The workmen demanded full wages for the suspension period, but the management did not agree to it. Hence this reference.

4. The case in respect of settlement has a chequered history. Shri C.S. Tiwari, representing the workmen, on 30-4-1986 filed objections to the settlement. Shri Bisen, Counsel for management, sought time to verify the settlement. On 7-5-1986 S/Shri Laxeshwar Singh and Lal Bahadur Singh, out of four workmen concerned, verified the settlement before this Court. The third workmen, Shri Shiv Kant Pandey, gave a statement before this Court on 26-3-1987 that he has taken the amount offered in settlement. Thereafter the case was fixed for evidence of the remaining workman, Shri Ram Kishore Paramar. After several dates, good sense prevailed in Shri C. S. Tiwari, representing the workmen, and he ultimately verified the settlement in respect of all the four workmen on 17-11-1989. Shri B.S. Bisen, Advocate, also verified the settlement in respect of all the four workmen on settlement read as under :—

“It is agreed by and between the management and the workmen that management will pay 75% of

the total demand made by the workmen which the workmen have agreed to accept. The payment will be made forthwith and after the payment made the industrial dispute pending before the CGIT shall be finally ceased to exist, and the workmen shall not claim any relief relevant to and connected with their demand of subsistence allowance.

As a token of acceptance of terms and conditions set out above the representative of management and the workmen themselves have appended their signatures in the present agreement.”

I have gone through the above terms of settlement. The settlement is duly signed by Shri B.P. Singh, Sr. Mining Engineer on behalf of the management and the workmen concerned themselves signed the settlement. The terms of settlement appear to be just and in favour of the workmen. I, therefore, record my award in terms of the settlement. No order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-29012/40,84-D. III (B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 15 दिसम्बर, 1989

का. प्रा. 49.—केन्द्रीय सरकार ने कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के खण्ड (ख) के अनुसरण में श्री सुरेश माथुर के स्थान पर श्री बी. पी. साहनी, सचिव, श्रम मंत्रालय को कर्मचारी राज्य बीमा निगम के उपनिर्देशक के रूप में नामनिर्दिष्ट किया है ;

अतः श्रम केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के अनुसरण में, भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. प्रा. 545 (अ), दिनांक 25 जुलाई, 1985 में निम्नलिखित संशोधन करना है, अर्थात्:—

उक्त अधिसूचना में, “(केन्द्रीय सरकार द्वारा धारा 4 के खण्ड (ख) के अधीन नामनिर्दिष्ट)” शब्दों के तात्पर्य में 2 के समान की प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:—

श्री बी. पी. साहनी,
सचिव, भारत सरकार,
श्रम मंत्रालय,
नई दिल्ली

[संख्या यू-16012/5/89-एस. एस.-I]
ए. के. भट्टाचार्य, श्रम सचिव

New Delhi, the 15th December, 1989

S.O. 49.—Whereas the Central Government has, in pursuance of clause (b) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948) nominated Shri V. P. Sawhney, Secretary, Ministry of Labour as Vice Chairman of the Employees' State Insurance Corporation, in place of Shri Suresh Mathur;

Now, therefore, in pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour S.O. No. 545(E), dated the 25th July, 1985, namely :—

In the said notification, under the heading “(Nominated by the Central Government under clause (b) of section 4)”, for the entry against Serial Number 2, the following entry shall be substituted, namely :—

Shri V. P. Sawhney,
Secretary to the Government of India,
Ministry of Labour.

[No. U-16012/5/89-SS. I]
A. K. BHATTARAI, Under Secy.

नई दिल्ली, 15 दिसम्बर, 1989

का. आ. 50.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैगर्ज ईस्टर्न कोलफील्ड्स लिमिटेड की हारीपुर कोलियरी के प्रवर्धन में संयुक्त नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-89 को प्राप्त हुआ था।

New Delhi, the 15th December, 1989

S.O. 50.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Haripur Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 12-12-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 30/89

PARTIES :

Employers in relation to the management of Haripur Colliery of M/s. Eastern Coalfields Ltd.

AND

Their Workman

PRESENT :

Shri N. K. Saha,
Presiding Officer.

APPEARANCES :

For the Employers.—Sri P. K. Das, Advocate.

For the Workman.—Sri M. Mukherjee, Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 4th December, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the dispute to this Tribunal for adjudication by Order No. L-22012(284)/88-D.IV.B dated the 28th June, 1989.

SCHEDULE

“Whether the action of the Management of Haripur Colliery of M/s. E. C. Ltd., P. O. Haripur Colliery, Dist. Burdwan in denying to pay full wages for the period of idleness forced upon him from 11-4-87 to 28-4-87 to Sri Rajbanshi Ahir, SMC Mazdoor, is justified? If not, to what relief the concerned workman is entitled?”

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

This is my award.

Enc : Settlement.

N. K. SAHA, Presiding Officer.
[No. L-22012(234)/88-D.IV-B/IR(C.II)]

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-1 LABOUR COURT AT ASANSOL

Ref. No. 30 of 1989

PARTIES :

Employers in relations to the management of Haripur colliery of M/s. E. C. Ltd., P. O. Bahula, Dist. Burdwan.

Vs.

Their workman (Sri Raj Banshi Ahir) represented by the Genl. Secy. CMU (INTUC).

The employers and the workman jointly beg to submit —

1. That the Industrial Dispute which is subject matter of the above reference pending for adjudication before the Hon'ble Tribunal has been decided to the amicably settled by the parties on the following terms, subject to the approval of the Hon'ble Tribunal.

TERMS

- (2a) That without admitting the correctness of the contentions raised by the parties against each other by either party, it has been decided that the workman concerned should be deemed to be on duty from 11-4-87 to 29-4-87 excluding rest days for the above period and total wages come to Rs. 959.62.
- (b) That the workman concerned will be paid 50 per cent of the above wages and it comes to Rs. 479.81 without fringe benefit.
- (c) That the concerned workman will not be entitled to get any other dues or to raise any other dispute regarding the above matter.
- (d) That the parties will bear their respective cost of this reference.
- (e) That it is agreed by the parties, the aforesaid, agreed amount will be paid to the concerned workman by the employers within one month from the date of award.
- (f) That the parties jointly pray for keeping in mind the Industrial relations of the establishment harmonious, necessary approval may please be accorded by the Hon'ble Tribunal for settlement of this dispute on the aforesaid terms and to pass an award accordingly by treating this petition as a part thereof.

On behalf of the workman.

Genl. Secy. CMU (INTUC)

Witness :

Raj Banshi Ahir

concerned workman.

On behalf of the management.

Haripur

Agent Colliery

Personnel Manager/Kenda Area.

का. आ. 51.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैगर्ज ईस्टर्न कोलफील्ड्स लिमिटेड की हारीपुर कोलियरी के प्रवर्धन में संयुक्त नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-89 को प्राप्त हुआ था।

S.O. 51.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Haripur Colliery of M/s. Eastern Coalfields Ltd. and their workman which was received by the Central Government on 12-12-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL ASANSOL

Reference No. 26/89

PARTIES :

Employers in relation to the management of Haripur Colliery of M/s. Eastern Coalfields Ltd.

AND

Their workman.

PRESENT :

Sri N. K. Saha, Presiding Officer.

APPEARANCES :

For the Employers.—Sri P. K. Das, Advocate.

For the Workman.—Sri M. Mukherjee, Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 29th November, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the dispute to this Tribunal for adjudication by Order No. L-22012(210) 88-D:IV(B) dated the 9th June, 1989.

SCHEDULE

"Whether the action of the Management of Haripur Colliery of M/s. E.C. Ltd., P. O. Buhula, Dist. Burdwan in denying Group-VA wages to Sri Gulab Ch. Harijan, Underground Loader for the period from 20-6-87 to 19-7-87 is justified? If not, to what relief the workman concerned is entitled?"

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

This is my award.

Enc : Settlement

N. K. SAHA, Presiding Officer.
[No. L-22012(210)88-D:IV.B]11R(C.II)]

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT ASANSOL

Ref. No. 26 of 1989

PARTIES :

Employers in relations to the management of Haripur colliery of M/s. EC. Ltd. P.O. Bahula, Dist. Burdwan.

Vs.

Their workman

(Shri Gulab Ch. Harijan) represented by the General Secretary, CMU (INTUC).

The employers and the workman jointly beg to submit :—

1. That the Industrial dispute which is subject matter of the above reference pending for adjudication before the Hon'ble Tribunal has been decided to amicably settled by the parties on the following terms, subject to the approval of the Hon'ble Tribunal.

TERMS

- 2(a) That without admitting the correctness of the contentions raised by the parties against each

other by either party has been decided that the workman had loaded 77.2 tubs during the period of his training for two months and will be paid the wages for the loaded tubs after deducting the stipend already paid for the above period and it comes to Rs. 1396.54.

- (b) That the concerned workman will not be entitled to get any other dues or to raise any other dispute regarding the above matter.

- (c) That the parties will bear their respective cost of this reference.

- (d) That it is agreed by the parties, the aforesaid, agreed amount will be paid to the concerned workman by the employers within one month from the date of award.

- (e) That the parties jointly pray for keeping the Industrial relations of the establishment harmonious, necessary approval may please be accorded by the Hon'ble Tribunal for settlement of this dispute on the aforesaid terms and to pass an award accordingly be treating this petition as a part thereof.

On behalf of the workman.

Genl. Secy. CMU (INTUC),

Witnesses :

Gulab Ch. Harijan.

On behalf of the Management

Agent Haripur Colliery

Personnel Manager/Kendu Area

का. भा. 52.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार व मैसर्स ईस्टर्न कोयलाखन लिमिटेड की न्यू केंद्रा कोलियरी के प्रबंधन में संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आंगनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-79 को प्राप्त हुआ था।

S.O. 52.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of New Kenda Colliery of M/s. Eastern Coalfields Ltd., and their workmen, which was received by the Central Government on 12-12-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL ASANSOL

Reference No. 40/88

PARTIES :

Employers in relation to the management of New Kenda Colliery of M/s. Eastern Coalfields Ltd.

AND

Their Workman.

PRESENT :

Shri N. K. Saha,

Presiding Officer.

APPEARANCES :

For the Employers.—Shri P. K. Das, Advocate.

For the Workman.—Shri C. D. Dwevedi, Advocate.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 4th December, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the

Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(17)/88-D.IV(B) dated the 20th June, 1988.

SCHEDULE

"Whether the action of the Management of New Kenda Colliery of M/s. Eastern Coalfields Ltd., P.O. Kenda, Dist. Burdwan in dismissing Sri Sonia Patra, Underground Trammer w.e.f. 11-4-1986 is justified? If not, to what relief is the concerned workman entitled?"

2. During the pendency of the case, on 4-12-89 Sri C. D. Wwevedi, Advocate representing the union filed a petition signed by the Vice-President of the union submitting therein that the concerned union is no longer interested to pursue the instant matter. In the petition the union also prayed for a 'no dispute' award in this case. Sri P. K. Das, Advocate representing the management has no objection in this regard.

3. Upon consideration of the petition and the submission of the parties this Tribunal has no other alternative but to pass a 'no dispute' award and accordingly a 'no dispute' award is passed.

This is my award.

N. K. SAHA, Presiding Officer.
[No. L-24012(17)/88-D.IV.B/IR(C. II)]

का. प्रा. 53.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स ईस्टर्न कोलफील्ड्स लिमिटेड की जामबाद कोलियरी के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-89 को प्राप्त हुआ था।

S.O. 53.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Jambad Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 12-12-89.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 50 of 1983

PARTIES :

Employers in relation to the management of Jambad Colliery of Messrs Eastern Coalfields Ltd., Post Office Kajoragram, District Burdwan.

AND

Their workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employers—Mr. B. M. Lala, Advocate.

On behalf of workman—None.

STATE : West Bengal

INDUSTRY : Coal

AWARD

By Order No. L-19012(14)/83-D.IV (B) dated 25th August, 1983, the Government of India, Ministry of Labour and Rehabilitation (Department of Labour) referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Agent, Jambad Colliery Messrs Eastern Coalfields Limited, Post Office Kajoragram, District Burdwan in stopping work of Shri

Raghunath Nayak, Wagon Loader, w.e.f. 7-7-82 is justified? If not, to what relief the workman is entitled?"

2. When the case is called out today, Mr. B. M. Lala, Advocate appears for the employer. Nobody appears for the workman. A petition has however been received from the Union duly signed by the General Secretary of the Union stating therein that the Union is no longer interested to proceed with the present reference and the Union prays for a "No Dispute Award". Mr. Lala appearing for the employer has no objection in this regard.

3. On due consideration of the petition of the Union as well as the submission of Mr. Lala, appearing for the employer, I find that this Tribunal has no other alternative but to pass a "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.

Dated, Calcutta,

The 6th December, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(14)/83D.IV. B/IR(C-II)]

का. प्रा. 54.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स ईस्टर्न कोलफील्ड्स लिमिटेड की संग्रामगढ़ कोलियरी के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-12-89 को प्राप्त हुआ था।

S.O. 54.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sangramgarh Colliery of M/s Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 8th December, 1989.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 47 of 1983

PARTIES :

Employers in relation to the management of Sangramgarh Colliery of Messrs Eastern Coalfields Limited,

AND

Their workmen

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employers—Mr. T. K. Bose, Counsel with Mr. M. N. Kar, Advocate.

On behalf of workmen—None.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(11)/83-D.IV(B) dated 2nd August, 1983, the Government of India, Ministry of Labour & Rehabilitation (Department of Labour) referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management Sangramgarh Colliery under Salanpur Area of Messrs Eastern Coalfields Limited, P.O. Sandi, District Burdwan in not allowing S/Shri Shankarlal Barat and 176 others (as shown in the Annexure below) to work in their Sangramgarh Colliery w.e.f. 25th February, 1973 is justified? If not, to what relief the workmen concerned are entitled?"

ANNEXURE

List of the workmen

Sl. No. Name

1. Shankarlal Barat
2. Durgadas Chatterjee
3. Ashoke Sar
4. Dilip Sarkar
5. Bhatary Routh
6. Uttam Kumar Roy
7. Shyamal Kr. Chatterjee
8. Kunjabehari Haldar
9. Satrugana Nandi
10. Sukdeb Mondal
11. Bipadatan Dey
12. Hakhahari Guin
13. Swapan Kr. Nandi
14. Bidyut Bikash Dey
15. Kripasindhu Dey
16. Asoke Kumar Medda
17. Prosenjit Dey
18. Ashoke Kr. Mondal
19. Subal Ch. Maji
20. Banamali Kundu
21. Manoj Kr. Mondal
22. Subhas Ch. Laha
23. Lal Mohan Thakur
24. Debsankar Roy
25. Narugopal Mondal
26. Laxmi Narayan Mondal
27. Ramapada Mukherjee
28. Biswanath Nandi
29. Hiralal Banerjee
30. Madan Adhikary
31. Nepal Ch. Mondal
32. Saroj Kr. Barik
33. Premaspada Barik
34. Laxmi Kanta Mondal
35. Jagat Taran Dey
36. Uttam Kumar Dey
37. Amal Kr. Kundu
38. Asit Kr. Maji
39. Gunadhar Nayak
40. Bibekanandu Kundu
41. Kukti Gorai
42. Prasanta Kr. Dey
43. Sajal Kanti Dey
44. Prafulla Kanti Dey
45. Akloo Napit
46. Naresh Verma
47. Anandi Mohan Layek
48. Rajib Lochan Das
49. Subrata Dey
50. Swapan Kr. Choudhury
51. Abhoypada Barik
52. Sarbani Nandi
53. Pranab Bain
54. Debi Prasad Nayak
55. Paresnath Chatterjee
56. Madhab Mishra
57. Paresnath Nayak
58. Patitaban Nayak
59. Madhai Chandra Khan
60. Tarani Mohan Das
61. Swapan Kr. Khan
62. Shyamapada Adhikary
63. Tark Kumar Chatterjee
64. Benimadhab Chatterjee
65. Madhu Mukherjee
66. Alope Kumar Bakshi
67. Uttam Kumar Cha
68. Madhab Ch. Gorai
69. Tushtarkanti Majumdar
70. Shanti Mukherjee
71. Sanjoy Chakraborty
72. Kanchan Mukhuty
73. Ashoke Roy
74. Abul Ghayas
75. Dipak Kabi
76. Tarun Kabi
77. Ganshyam Adhikari
78. Nema Adhikary
79. Baghambar Adhikari

80. Magaram Nag
81. Samir Goswami
82. Brindaban Mitra
83. Hemanta Ghosh
84. Sanat Kr. Chatterjee
85. Anoj Kanti Chatterjee
86. Saraj Kanti Chatterjee
87. Devanand Sinha
88. Chanchal Kr. Paitandy
89. Pradip Kr. Chatterjee
90. Rabi Lochan Mondal
91. Ranjit Kr. Mondal
92. Gopinath Maji
93. Lakhan Ch. Mondal
94. Chandan Bannerjee
95. Falguni Mukherjee
96. Debnath Mukherjee
97. Bikash Kr. Mukherjee
98. Chandranath Bhattacharjee
99. Narendranath Maji
100. Dilip Kr. Mondal
101. Bimal Kr. Mondal
102. Shyamapada Nandi
103. Haradhan Nandi
104. Nandalal Nandi
105. Bhajan Ch. Mondal
106. Shambhunath Mondal
107. Dasrath Mondal
108. Chandi Charan Gerai
109. Haradhan Gorai
110. Bhim Ch. Maji
111. Badal Nandi
112. Santimoy Roy
113. Barun Banerjee
114. Ganendranath Maji
115. Biswajit Mondal
116. Parimal Sadhu
117. Dinabandhu Mondal
118. Jankinath Mondal
119. Jitendranath Nandi
120. Arun Chandra Mishra
121. Gora Chand Mishra
122. Nirmal Ch. Ganguli
123. Dharanidhar Kabi
124. Nirod Baran Haldar
125. Subodh Kr. Sad
126. Dhiren Karmakar
127. Bubal Sadhu
128. Sankardas Chattaraj
129. Adhir Kr. Chakraborty
130. Monilal Sudhu
131. Uttam Kumar Sadhu
132. Nanda Dulal Majhi
133. Sanjoy Kr. Mukherjee
134. Debananda Majhi
135. Dipak Kumar Majhi
136. Pradip Kr. Majhi
137. Asit Kumar Paitandy
138. Kaushik Kr. Mukherjee
139. Pranab Kumar Chandra
140. Manoj Kanti Khan
141. Lakshman Chandra Chandra
142. Lakshmi Narayan Ghosh
143. Kripa Sindhu Hazra
144. Bidyut Kr. Dey
145. Arun Kumar Sen
146. Basudeb Raja
147. Madan Mohan Jash
148. Dhirendranath Banerjee
149. Dukhi Ram Majhi
150. Sukumar Akunia
151. Gadadhar Dawn
152. Ramlal Munia
153. Sitaram Harijan
154. Sk. Abbas
155. Arun Kr. Samanta
156. Gouranga Das
157. Prydut Kr. Samanta
158. Subrata Goswami
159. Ahindranath Chatterjee
160. Subodh Ch. Majhi
161. Rabindranath Mondal
162. Sailen Chatterjee
163. Samar Majhi

164. Dilip Kr. Mondal
165. Dagananda Banerjee
166. Panchanan Suin
167. Prakash Ch. Suin
168. Umacharan Jana
169. Kora Suin
170. Prashu Behra
171. Asoke Kumar Sen
172. Subodh Kr. Nandi
173. Mukhteswar Singh
174. Nandalal Mondal
175. Madhab Kr. Chatterjee
176. Biswanath Sanigrahi
177. Bijoy Paul.

2. The case as made out by the Union espousing the cause of the concerned workmen named in the schedule to the reference is briefly as follows : The concerned workmen numbering 177 named in the schedule to the reference were working at Sangramgarh Colliery of E.C. Limited and they were under the direct roll of the management. Their names were also recorded in the B Form Register duly maintained by the management from the time of the erstwhile company under whom the concerned workmen also worked. It will appear from the B Form Register that the concerned workmen were engaged by the management for the purpose of soft coke manufacturing in several quarries of the Sangramgarh Colliery. The concerned workmen were also paid even after the nationalisation of the Coal Mines by the Coal Mines Authority and they received wages from the management of the colliery till 24th February, 1973. The management however continued to employ the concerned workmen from March 1973 to May 1975 as contract labourers under three contractors P. Chowdhury, B. N. Singh and B. N. Agarwal who were all the supervisors of the erstwhile management of Samdi Sangramgarh Colliery. The management illegally stopped the said work of the concerned workmen all on a sudden with effect from 1st June, 1975. The representation of the concerned workmen for regularising them in the employment of the colliery was not allowed by the management. The concerned workmen were not included in the screening list nor they were called for to appear before the Screening Committee inspite of their prior employment. The matter was then taken up to the Assistant Labour Commissioner (Central). The letter No. SC/655 dated 15th March, 1975 issued by the Manager of the Coal Mines Authority Limited Sangramgarh Colliery to the Sub Area Manager, Salanpur with a copy to the General Secretary of the Union supported the case of the concerned workmen. The management was not justified in not allowing the concerned workmen to work in the Sangramgarh Colliery with effect from 25th February, 1973. The concerned workmen have claimed appropriate relief under the present reference.

3. The case as made out by the management in their written statement is briefly as follows : The reference is not maintainable as the persons named in the reference were never the workmen under the management. It has been further contended that the Union sponsoring the cause of the concerned workmen has no locus standi as the union does not have the substantial membership from amongst the workmen in the colliery and as the union was not authorised by any resolution to take up the cause of the concerned persons. It has been denied that the concerned persons named in the reference were ever employees either of the erstwhile company or of the present management at any time. It has also been denied that the concerned persons ever worked as the employees of the Contractor of the management. Such being the position, the stopping of work of the concerned persons by the management does not at all arise. It has been denied that the names of the concerned persons were recorded in the B Form Register maintained by the erstwhile company and the management. The concerned persons never got any wages from the management. After the nationalisation of the Coal Mines, the Custodian appointed under the Act directed the management to send the list of man power including therein the names of all the workers employed by the company and also employed by the contractors under them. Accordingly the management sent the list of man power. A Screening Committee was constituted and the said Screening Committee finalised the list of man power taking into consideration the existing employees of the erstwhile company and also the contractor's employees who were taken over. The issue of the letter under reference No. SC/655 dated 15th March, 1975 as

alleged by the union has been denied by the management. The concerned persons being never in employment under the management in any capacity are not entitled to any relief under the instant reference.

4. The union espousing the cause of the concerned alleged workmen has not appeared inspite of receipt of the notice. None of the alleged concerned workmen has also appeared. The Tribunal by its earlier order issued notice with a direction that the case would be taken-up in the absence of the union if the union or the workmen failed to appear on the date fixed for hearing. Inspite of the receipt of such notice neither the union nor the workmen, have appeared. Accordingly the case was taken-up for hearing in the absence of the union/workmen.

5. The management however appeared on the date 23rd November, 1989 when the matter was taken-up for hearing in the absence of union. The management examined three witnesses and produced several documents as exhibits. MW-1 Anil Kumar Tarafdar was posted at Salanpur as Group Personnel Manager after take-over and nationalisation of the Coal Mines. The concerned colliery was within that area. His evidence shows that Mr. A. K. Banerjee was the Custodian of Salanpur group at that time. His evidence further discloses that he was one of the members of the Screening Committee in respect of the man power. In pursuance of the Custodian's letter dated 14th March, 1973 Ext. M-1, the Custodian got the list of man power Ext. M-2 from the Manager of the Samdi Sangramgarh Colliery. The said list Ext. M-2 contains the names of the existing employees of the erstwhile management and also of the contractor's employees working in different quarries. The Screening Committee after necessary screening prepared final list of the man power of the colliery Ext. M-3 and Ext. M-4 and got the same approved by the Sub-Area Manager of the Salanpur Area. The said final list did not contain any name of the concerned persons mentioned in the reference. MW-1 has clearly stated in his evidence that 177 persons named in the reference were not the employees of the erstwhile management or of the contractor at the relevant time and that accordingly their names did not find place in the final list of the man power. His evidence shows that the Screening Committee on proper screening made the final list of man power on the basis of the position as found at the relevant time. The B Form Registers Ext. M-5 to M-5/c prepared with reference to the old B Form Registers of the erstwhile colliery and maintained in the official course of business were verified by the Screening Committee while preparing the final list of man power.

6. MW-2 Mr. Manabendra Roy who worked at Sangramgarh Colliery as Welfare Officer before and after the nationalisation, has stated in his evidence that the list of man power Ext. M-2 was prepared under his supervision on the basis of the B Form Registers of the erstwhile management B. Hazra & Co. His evidence further shows that the said B Form Registers of the erstwhile management could not be produced as they were not available. According to his evidence the Custodian took possession of all old documents including the old B Form Registers of the erstwhile management. The return in Form-V Ext. M-6 regarding the contribution to the Provident Fund in respect of the employees of the erstwhile management B. Hazra & Co. was obtained from the C.M.P.F. Section of the colliery. The said return contains the names of the employees of the erstwhile management B. Hazra & Co. and the same does not include the name of any of the concerned persons as mentioned in the reference. This witness (MW-2) has also stated in his evidence that the persons named in the schedule to the reference never worked in Sangramgarh Colliery and that accordingly the question of allowing them to work in the said colliery with effect from 25th February, 1973 as mentioned in the reference does not arise. This witness has further stated in his evidence that the letter with reference No. SC/655 dated 15th March, 1975 which is Annexure-B to the union's written statement was never issued from the office of the Coal Mines Authority under the signature of the Manager to the Sub Area Manager, Salanpur Sub-Area. The Dak Despatch Register of 1975 Ext. M-8 also does not indicate that any such letter was issued. The letter under the said reference No. SC/655 dated 14th March, 1975 was however issued with reference to the casual leave by the Manager of the Sangramgarh Colliery. The copy of the said letter is Ext. M-7.

7. MW-3, Mr. V. S. Prasad who is the Deputy Personnel Manager of the Salanpur Area of the E.C. Limited has stated in his evidence that the Agent of the Colliery received letters from one Ramani Mohan Sen alongwith a copy of the affidavit stating that he has filed such an affidavit before the Tribunal and also similar letters from Ashoke Kumar Sen and Arun Kumar Sen alongwith the copies of their respective affidavits stating that they have also filed the similar affidavits before the Tribunal. It appears from the record that the office of the Tribunal received three affidavits sworn by Ramani Mohan Sen, Ashoke Kumar Sen and Arun Kumar Sen. The said original affidavits being in the record have been looked into and it appears therefrom that Ashoke Kumar Sen and Arun Kumar Sen whose names appear in the schedule to the reference as workman were never employed under the erstwhile management B. Hazra & Co. and also under the present management and that their names were never entered in the B Form Registers in the colliery as they never worked in the said colliery.

8. Mr. Kar, the Learned Advocate appearing for the management, has submitted that the said affidavits have shown the falsity of the claim of some alleged workmen thereby indicating that the union has raised the dispute on a false claim. Be that as it may, the union has not come to establish the claim of any of the alleged workman named in the reference. On the other hand the evidence as produced by the management has shown that neither of the persons named in the reference was ever in employment under the erstwhile management or under the instant management.

9. In view of the facts as discussed above, the reference is found to be not maintainable. The management has not made out any case either in evidence or at the time of argument about the plea that the union has no locus standi.

10. I find no substance also in the reference and the question of not allowing the concerned persons named in the reference to work with effect from 25th February, 1973 does not arise. The concerned persons having not been found to be the workmen under the management, the reference itself fails and as a result, the persons named in the reference are not entitled to any relief what-so-ever. I make the Award accordingly in the absence of the union.

This is my Award.

Dated, Calcutta,
The 28th November, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(11)/83-D.IV.B/IR(C-III)]

का. आ. 55.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसूचन में, केन्द्रीय सरकार व मसर्स ईस्टर्न कोलफील्ड्स लिमिटेड की डालुर्बन्द कोलियरी के प्रबन्धन में संज्ञक नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-12-89 को प्राप्त हुआ था।

S.O. 55.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Dalurband Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 8-12-89.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 131 of 1988

PARTIES :

Employers in relation to the management of Dalurband Colliery of Eastern Coalfields Limited.

AND

Their Workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employer—Mr. P. Banerjee, Advocate.

On behalf of workmen—None.

STATE : West Bengal

INDUSTRY : Coal

AWARD

By Order No. I-19012/12/87-D.IV (B) dated 31st August, 1987, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

"Whether the demand of the Union that S/Shri Mithu Harijan, Giridhari Bhuiya and Bhola Singh, Lamp Issue Clerk (Clerical Gr. III), Dalurband Colliery of Eastern Coalfields Ltd., should be promoted from the date their juniors have promoted with payment of arrears wages, is justified? If so, to what relief the concerned workman are entitled?"

2. When the case is called out today, Mr. P. Banerjee, Advocate appear for the management. Nobody appears for the workmen. Mr. Banerjee files a joint petition duly signed by both parties, stating therein that the Union is not interested to proceed with the present reference. Both parties have prayed for a "No Dispute Award" in the said joint petition.

3. On due consideration of the petition duly signed by both parties as well as the submission of Mr. Banerjee for the management. I find that this Tribunal has no other alternative but to pass a "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.

Dated, Calcutta,
The 30th November, 1989

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(12)/87-D.IV B/IR (C-III)]

क. आ. 56.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार व मसर्स ईस्टर्न कोलफील्ड्स लिमिटेड की चोरा कोलियरी के प्रबन्धन में संज्ञक नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-12-89 को प्राप्त हुआ था।

S.O. 56.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Chora Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 12-12-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL ASANSOL

Reference No. 34/88

PARTIES :

Employers in relation to the management of Chora Colliery of M/s. Eastern Coalfields Ltd

AND

Their Workmen.

PRESENT :

Shri N. K. Saha, Presiding Officer.

APPEARANCES :

For the Employers—Shri P. K. Das, Advocate.

For the Workman—Sri M. Mukherjee, Advocate.

INDUSTRY : Coal

STATE : West Bengal

Dated, the 5th December, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication under Order No. L-24012(234)/87-D.IV (B) dated 18-3-88.

SCHEDULE

"Whether the action of the Management of Chora Colliery of M/s. Eastern Coalfields Ltd. P.O. Bahula, Dist. Burdwan in not treating the period of disablement of Sri Sitaram Harijan, Underground Loader from 4-4-85 to 16-6-85 as on duty and thus depriving him of the wages for the said period is justified? If not, to what relief the workman concerned is entitled?"

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

This is my award.

N. K. SAHA, Presiding Officer
[No. L-24012(234)/87-D.IV. B/IR (C-II)]

BEFORE THE HON'BLE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT AT ASANSOL

Reference No. 36 of 1988

PARTIES :

Employers in relation to the management of Chora Colliery of M/s. Eastern Coalfields Limited P.O. Bahula, Dist. Burdwan.

AND

Their workman (Sri Sitaram Harijan) represented by the General Secretary, CPW (INTUC), Ukhara (Burdwan).

The employers and the workmen jointly beg to submit:—

1. That the industrial dispute which is subject matter of the above Reference pending for adjudication before the Hon'ble Tribunal, has been decided to amicably settled by the parties on the following terms subject to the approval of the Hon'ble Tribunal.

TERMS

2. (a) That without admitting the correctness of the contentions raised by the parties against each other by either party, it has been decided that the workman concerned should be deemed to be on duty from 4-4-85 to 16-6-85 excluding Rest Days during the said period and total wages for the aforesaid period come to Rs. 2013.84.
- (b) That the workman concerned will be paid 75% of the above wages and it comes to Rs. 2013.84 without fringe benefit.
- (c) That the workman concerned will not be entitled to get any other dues or to raise any other dispute regarding the above matter.
- (d) That it is agreed by the parties, the aforesaid agreed amount will be paid to the concerned workmen by the employers within one from the date of Award.
- (e) That the parties will bear their respective cost of this Reference.
- (f) That the parties jointly pray keeping in mind the industrial relation of the establishment harmonious,

necessary approval may please be awarded by the Hon'ble Tribunal for settlement of the dispute on the aforesaid terms and to pass an Award accordingly by treating this petition as a part thereof.

On behalf of the workman :

Sd/-

General Secretary

CMU (INTUC)

WITNESS :

Thumb Impression

Workman concerned.
(Sitaram Harijan)

On behalf of the Employers :

Sd/-

Agent

Chora Colliery

Sd/-

Personnel Manager

Konda Area.

का. आ. 57.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व सैसर्ज ईस्टर्न कोलफील्ड्स लिमिटेड की डलूरबन्द कोलियरी के प्रबन्धन में संवाद निधोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कटकता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-12-89 को प्राप्त हुआ था।

S.O. 57.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta, as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Dalurband Colliery of M/s. Eastern Coalfields Ltd. and their workmen which was received by the Central Government on 8-1-1959.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 29 of 1988

PARTIES :

Employers in relation to the management of Dalurband Colliery of M/s. Eastern Coalfields Limited.

AND

Their workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employer—Mr. P. Banerjee, Advocate.

On behalf of workmen—None.

STATE : West Bengal

INDUSTRY : Coal

AWARD

By Order No. L-19012/84/86-D.IV (B) dated 13th April, 1987, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Management of Dalurband Colliery of M/s. Eastern Coalfields Ltd. P.O. Pandaveswar (Burdwan) in not regularising Shri Basudeo Modi as Lamp issue Clerk in Clerical Grade-III w.e.f. 29-6-1984 and also not paying difference of wages of Cat. I and Clerical Grade-III from 29-6-1984 and of Cat. II and Clerical Grade-III from 15-8-1984 is justified? If not, to what relief the workman is entitled?"

2. When the case is called out today, Mr. P. Banerjee, Advocate appears for the management but nobody appears for the workmen. Mr. Banerjee files a joint petition duly

signed by both parties, stating therein that the Union is not interested to proceed with the present reference. Both parties have prayed for a "No Dispute Award" in the said joint petition.

3. On the consideration of the petition, as well as the submission of Mr. Banerjee for the management. I find that this Tribunal has no other alternative but to pass a "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.

Dated, Calcutta,
The 30th November, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(84)/86-D. IV. B/IR (C-II)]
R. K. GUPTA, Desk Officer.

नई दिल्ली, 18 दिसम्बर, 1989

का. आ. 38.--उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उत्प्रवासी संरक्षी कार्यालय, कोचीन में नियुक्त श्री के. थामस, सहायक को दिनांक 11 दिसम्बर, 1989 से 19 दिसम्बर 1989 तक उत्प्रवासी संरक्षी, कोचीन के सभी कार्यों को करने के लिए प्राधिकृत करती है।

[सं. ए-22012/1/89उ-प्र.]

New Delhi, the 18th December, 1989

S.O. 58.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri K. K. Thomas, Assistant in the office of Protector of Emigrants, Cochin to perform all the functions of Protector of Emigrants, Cochin in the office of Protector of Emigrants, Cochin from 11-12-89 to 19-12-89.

[No. A-22012/1/89-Emig.]

का. आ. 59.--उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उत्प्रवासी संरक्षी कार्यालय, मद्रास में नियुक्त श्री आर. देसिंगराजन, सहायक को दिनांक 12 दिसम्बर 1989 से 15-12-89 तक उत्प्रवासी संरक्षी, मद्रास के सभी कार्यों को करने के लिए प्राधिकृत करती है।

[सं. ए-22012/1/89उ-प्र.]

S.O. 59.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri R. Desingrajan, Assistant in the office of Protector of Emigrants, Madras to perform all functions of Protector of Emigrants, Madras in the office of Protector of Emigrants, Madras from 12-12-89 to 15-12-89.

[No. A-22012/1/89-Emig.]

का. आ. 60.--उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्री एम. के. मित्र, सहायक भविष्य निधि प्रांगण, कलकत्ता को उत्प्रवासी संरक्षी, कलकत्ता के सभी कार्यों को दिनांक 14 तथा 15 दिसम्बर 1989 तक करने के लिए प्राधिकृत करती है।

[सं. ए-22012/1/89उ-प्र.]

S.O. 60.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri S. K. Mitra, Assistant Provident Fund Commissioner Calcutta to perform all the functions of Protector of Emigrants, Calcutta in the office of Protector of Emigrants, Calcutta on 14-12-89 and 15-12-89.

[No. A-22012/1/89-Emig.]

का. आ. 61.--उत्प्रवास अधिनियम 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार

उत्प्रवासी संरक्षी कार्यालय, त्रिवेंद्रम में नियुक्त श्री मति लेखी फ्रैंको, सहायक को दिनांक 11 दिसम्बर 1989 से 22 दिसम्बर 1989 तक उत्प्रवासी संरक्षी, त्रिवेंद्रम के सभी कार्यों को करने के लिए प्राधिकृत करती है।

[सं. ए-22012/1/89उ-प्र.]

S. O. 61.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Mrs. Tessa Franco, Assistant in the office of Protector of Emigrants, Trivandrum to perform all the functions of Protector of Emigrants, Trivandrum in the office of Protector of Emigrants, Trivandrum from 11-12-89 to 22-12-89.

[No. A-22012/1/89-Emig.]

का. आ. 62.--उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, निदेशक, श्रम ब्यूरो कार्यालय चण्डीगढ़ में अनुसंग अधिकारी श्री वा. एस. सन्धु को दिनांक 13 दिसम्बर 1989 से 15 दिसम्बर 1989 तक उत्प्रवासी संरक्षी चण्डीगढ़ के सभी कार्यों को करने के लिए प्राधिकृत करती है।

[सं. ए-22012/1/89उ-प्र.]

S.O. 62.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri G. S. Sandhu, Section Officer in the office of Director, Labour Bureau, Chandigarh to perform all the functions of Protector of Emigrants, Chandigarh in the office of Protector of Emigrants, Chandigarh from 13-12-89 to 15-12-89.

[No. A-22012/1/89-Emig.]

का. आ. 63.--उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्रम मंत्रालय में अनुसंग अधिकारी श्री रजिन्त सिंह को दिनांक 15 दिसम्बर 1989 को उत्प्रवासी संरक्षी, दिल्ली के सभी कार्यों को करने के लिए प्राधिकृत करती है।

[सं. ए-22012/1/89उ-प्र.]

प्रदीप सिंह, अवर सचिव

S.O. 63.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri Ravjit Singh, Section Officer, Ministry of Labour, New Delhi to perform all the functions of Protector of Emigrants, New Delhi in the office of Protector of Emigrants, Delhi on 15-12-89.

[No. A-22012/1/89-Emig.]
PRADEEP SINGH, Under Secy.

नई दिल्ली, 19 दिसम्बर, 1989

का. आ. 64.--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार, मोरारजी वस्तु कोलिंग कोल लिमिटेड की बालाकोला क्षेत्र-9 का गोल्डगुड कोलिंग, के प्रवर्तन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुसूच में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिवक्ता (सं. 2), धनबाद के पंचपट को प्रकाशित करती है।

New Delhi, the 19th December, 1989

S. O. 64.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Golukdih Colliery (GOCP) of Bastacolla Area IX of M/s. B.C.C. Ltd and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 228 of 1987

In the matter of an industrial dispute under Section 10(1)(d)
of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Golukdih
Colliery (GOCP) of Bastacolla Area IX of M/s.
B.C.C. Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri S. Bose, Secretary,
R.C.M.S.

On behalf of the employers : Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal

Dated, Dhanbad, the 22nd November, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012 (12/8-1-D.1V(B) dated, the 3rd August, 1987.

SCHEDULE

"Whether the action of the Management of Golukdih Colliery (GOCP) of Bastacolla Area IX of M/s. Bharat Coking Coal Ltd., P.O. Jharia, Distt. Dhanbad in dismissing Sri Kapildeo Sharma, Night Guard from service is justified? If not, to what relief the workman concerned is entitled?"

The case of the workmen is that the concerned workman Shri Kapildeo Sharma was appointed at Golukdih Colliery of M/s. B.C.C. as Night Guard and was working as such since long. In the night shift commencing at 12 mid night between 15/16-1-85 the concerned workman alone was on duty at the office of Golukdih open cast project to protect and guard the office and the cash room which is inside the office room. He was on duty from the mid night till 8 A.M. of 16-1-86. As a normal practice and procedure in the collieries the Night guards deputed in the office at Night close themselves within the cash room from inside to ward himself and the cash from burglar and robbers. On 16-1-86 the concerned workman was issued with a charge-sheet with suspension from duty alleging theft and abetment of theft of company's jeep No. BPR 5085 which was alleged to have been kept in the office compound. The management also filed FIR with the police in respect of theft of the said Jeep. The concerned workman replied to the chargesheet stating that he had properly done his duty and that neither he had committed theft or abetment of theft of the company's Jeep. He also stated that he was not given charge of the Jeep alleged to have been stolen during his duty hours. The management held a domestic enquiry and thereafter dismissed the concerned workman vide order dated 9-8-86 passed by the Agent, Golukdih Open Cast Project. The Police also held enquiry in the FIR lodged before him and found that there was neither any theft of Jeep as alleged nor the concerned workman was guilty of theft or abetment of the theft of the Jeep. Consequent upon the dismissal of the concerned workman and as a result of the finding of the police, the concerned workman and his union took up the case with the management and on failure of the settlement, an industrial dispute was preferred before the ALC(C), Dhanbad. The ALC(C), Dhanbad started conciliation proceeding and on failure of the conciliation the present reference has been made to this Tribunal for adjudication. It is submitted that the action of the management in dismissing the concerned workman is arbitrary in as much as the concerned workman was on duty in the office cash room on the date of the alleged incident and he was not given specific charge of the Jeep alleged to have been stolen during his duty hours. The key of the aforesaid Jeep was kept by the Driver and not with the concerned workman. On the above facts it is prayed that the order of dismissal should be set aside and the concerned workman should be reinstated with full back wages from the date of his dismissal

and that he should also be paid full wages for the period he has been kept idle from the date of his dismissal.

The case of the management is that the concerned workman was employed in Golukdih colliery of Bastacolla Area No. IX as Night Guard. In the normal course the concerned workman was detailed for duty in their shift commencing at mid night of 15/16-1-86 and commencing at 8.00 A.M. on 16-1-86 at the office of the Golukdih Open cast project. During the course of his duties he was responsible to guard the property of the project including the 2 Jeeps and one ambulance parked at project office. The concerned workman had taken charge on the alleged date from Shri Ramsaji Rom Mishra Night Guard Havaladar and at that time the 2 Jeeps and the ambulance were parked at the project office. It was discovered in the morning of 16-1-86 that during the duty hours of the concerned workman the diesel Jeep No. BPR 5085 was stolen, immediately thereafter the statement of the concerned workman was recorded who admitted that the diesel Jeep was taken away by the 2 outsiders during his duty hours. Thereafter the chargesheet dated 16-1-86 was issued to the concerned workman under clause 18(1)(a) and (v) of the Certified Standing Orders of Golukdih colliery. The concerned workman submitted his explanation dated 29-1-86. The explanation of the concerned workman was found to be unsatisfactory. The management ordered for a domestic enquiry against the concerned workman and Shri S. P. Tewary, Sr. P.O. Bastacolla colliery was appointed as enquiry officer to hold enquiry into the charge framed against the concerned workman. The concerned workman fully participated in the enquiry before the enquiry officer and he had taken assistance of a co-worker during the enquiry in his defence. The witness for the management were examined in presence of the concerned workman and his co-worker and they were given full opportunity to cross-examine the management's witnesses. The concerned workman was given an opportunity to make his statement and to examine witness in his defence. The concerned workman gave his statement but declined to examine any witness in his defence. After completing the enquiry the enquiry officer submitted his report dated 2-8-86 finding the concerned workman guilty of the charges framed against him. The report of the concerned workman was considered by the competent authority. The CM/Chief Mining Engineer of Bastacolla area in which Golukdih open cast Project/Golukdih colliery falls approved the order of dismissal of the concerned workman and thereafter the concerned workman was dismissed from service vide letter dated 9-8-86 issued by the Agent, Golukdih Open cast project. The domestic enquiry was held in accordance with the principles of natural justice and all possible and reasonable opportunities were given to the concerned workman to defend his case. On the above facts it is prayed that the Award be passed in favour of the management.

At the very outset, as stated in para 17 of the W.S. of the management, the parties were heard on the preliminary point whether the domestic enquiry held into the charges against the concerned workman was fair, proper and in accordance with the principles of natural justice. The management examined the enquiry officer and produced the relevant documents of the domestic enquiry. After hearing the parties vide order dated 18-9-89 the preliminary point was decided by the Tribunal holding that the enquiry into the charges against the concerned workman was fair, proper and in accordance with the principles of natural justice.

Now the point for decision is whether the charges framed against the concerned workmen were established in the domestic enquiry and whether the punishment of dismissal passed against the concerned workman was proportionate to the offence alleged against him.

The management has produced relevant papers of the enquiry proceeding which are marked Ext. M-1 to M-9.

Ext. M-1 dated 16-1-86 is the charge-sheet, the relevant facts of which I have already stated while stating the case of the management. Ext. M-2 dated 29-1-86 is the reply of the chargesheet submitted by the concerned workman in which it is stated that the concerned workman was on duty from 12 mid night to 8.00 A.M. on 16-1-86 to look after the cash room of the office. It was further his case that he was never deployed to guard the motor vehicles nor it was

his duty go guard Motor vehicles. He also stated that nobody had handed over the charge of Jeep No. BPR 5085 or any other vehicle nor he was asked to guard any vehicle. In short he denied the charges levelled against him.

It is the admitted case of the parties that the enquiry was conducted in the presence of the concerned workman and his co-worker. Ext. M-7 is the enquiry proceeding and Ext. M-8 dated 2-8-86 is the enquiry report of Shri S. B. Tewary enquiry officer. It will appear from the enquiry proceeding that the management examined MW-1 Shri Gaya Pd. Rai, MW-2 Ram Lohit Singh and MW-3 Shri Ramsaji Ram Mishra, Night Guard Havaladar, MW-3 Shri Ramasaji Ram Mishra had stated that he was on duty in the second shift of 15-1-86 in the office of the Golakdih Open cast project. He has stated that during his duty hours 3 or 4 Jeeps came at about 11.00 P.M. He has further stated that at 12 mid night he handed over the charge to the concerned workman and went away. In cross-examination he has stated that he was in the office in front of the cash rack when the vehicles had come at 11.00 P.M. He has stated that the Driver of the Jeep which was stolen away had not handed over the key of the Jeep to him. He also stated that he did not identify the driver when the vehicles were parked in the office. He has expressed his ignorance that any charge used to be handed over or taken over of the Jeeps when the shift duty was changed. To another question he has stated that he was responsible only for the lock of the office building and was not responsible for the materials kept in the office compound. In the end of his cross-examination he has stated that when he had left his duty the vehicles were parked. On close reading of the evidence of MW-3 it will appear that he has not specifically stated that the Jeep BPR 5085 was actually parked at 11.00 P.M. during his shift of duty or that he had seen the said Jeep parked in the office compound.

MW-1 Shri Ganga Pd. Rai and MW-2 Shri Ram Lohit Singh, Night Guards Havaladar were patrolling together in the night between 15/1-1-86. It will appear from their evidence that at about 2.00 A.M. in the night they reached the office and called the concerned workman who was on duty at that time in the office. It will further appear from their evidence that the concerned workman came and opened the gate and thereafter they obtained the signature of the concerned workman on the duty registers and handed over the detailed report to the concerned workman. They also have stated that they enquired from the concerned workman upon which the concerned workman told that everything was alright. In cross-examination MW-1 has stated that a Night Guard is responsible for the entire materials kept in the office compound. MW-1 has further stated that when he had entered inside the compound he had seen one ambulance and one Jeep. MW-2 in his cross-examination to question No. 11 has stated that whenever there is duty in the second and third shift in the office, the Night Guard is responsible and has to see the safety of all the materials kept inside the office premises. It will appear from the evidence of these Havaladar Night Guards that the key of the ambulance and Jeep No. 1302 was handed over to the guards but the key of the new Jeep namely BPR 5085 was not handed over to the Night Guard and was kept by the driver of the Jeep himself. The evidence of the 3 witnesses do not show that the concerned workman had committed the theft of the Jeep BPR 5085. Their evidence does not show that the concerned workman had abetted in the commission of theft of the Jeep. There was no system of the actual handing over and taking over of the charge of vehicles parked in the project office compound. But a Night Guard posted for the safety of the office cannot absolve himself of the responsibility of guarding the vehicles and other articles which were kept within the office premises. The responsibility is no doubt their but the question is whether the concerned workman had knowingly and with intention allowed the Jeep parked in the office compound to get stolen away. The management has produced some statement made by the concerned workman himself after the theft of the Jeep which is at page-7 of the enquiry proceeding. It is alleged that the statement at page 7 was given by the concerned workman and he had signed the same. It will appear from the said statement that he had informed at about 2 P.M. the two Havaladar Gaya Rai and Ram Lohit Singh that somebody has taken away a Jeep just short while ago and even inspite of his questioning as to who they were they did not

give any reply and thereafter the Havaladar told him that he must be some person of the company. This statement alleged to have been given by the concerned workman has neither been supported by MW-1 Ganga Pd. Rai nor MW-2 Ram Lohit Singh. There is another statement of the concerned workman at page-8 forming part of the enquiry proceeding in which it is alleged that the concerned workman himself had stated that when he heard the sound of a vehicle moving he came out and saw one person pushing the vehicle and the other man was at the steering at about 1.00 A.M. and that when he enquired from them as to who they were, those persons took away the Jeep without any reply and as such the concerned workman thought that the vehicle was being taken by the driver. The concerned workman in his statement before the enquiry officer stated that there were only 2 vehicles when he came on duty. In cross-examination he was asked on behalf of the management as to what he had stated in his statement to which he stated that the Agent and Chatterjee Sahib enquired from him as to who had taken away the vehicle to which the concerned workman stated that he had not seen any person taking away the vehicle. He has denied the facts which are alleged to have been stated by the concerned workman at page-8 of the enquiry proceeding. The management has not examined the person who had recorded the statement of the concerned workman or the person in whose presence the said statement is alleged to have been stated by the concerned workman. Even if the alleged statement which is alleged to have been made by the concerned workman is accepted to be true, it does not denote that the concerned workman had any hand in the theft of the vehicle but that he was under an honest impression that the vehicle was being taken by the driver.

Considering all the evidence discussed above it will appear that the management has completely failed to establish the charge of theft or abetment of theft of the vehicle by the concerned workman. It is stated in the W.S. of the workman and not denied by the management that on enquiry by the police the allegation made against him were not supported and were unfounded.

Ext. M-1 is the chargesheet which shows that the concerned workman was charged under clause 18(1)(a)(i) of the Certified Standing Orders. Clause 18(1)(a) shows that theft, fraud or dishonesty in connection with the employers business or property is a misconduct. Clause 18(1)(u) shows that abetment of or attempt at abetment of any of the misconduct is also a misconduct. I have already discussed above that the management has failed to establish theft or abetment of theft of the vehicle by the concerned workman. Further it appears that the concerned workman was not vigilant and neglected his duty of Night Guard causing theft of the vehicle. Clause 18(1)(f) shows that habitual neglect of work is a misconduct. In the present case there is no evidence of habitual neglect of work by the concerned workman and as such he cannot be punished even for the misconduct of habitual neglect of work.

In the result I hold that the charges against the concerned workman have not been established and accordingly the punishment of his dismissal from service cannot be sustained.

In the result I hold that the action of the management of Golakdih colliery, G.O.C.P. of Bastacolla area No. IV of M/s. BCCL in dismissing the concerned workman Shri Kapil Deo Sharma, Night Guard from service is not justified. In view of the fact that the charge against the concerned workman has not been established he is reinstated in his service from the date of his dismissal i.e. w.o.f. 9-8-86 with full back wages and other consequential benefits. The management is therefore directed to reinstate the concerned workman with payment of full back wages and other consequential benefits within one month from the date of publication of the Award.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-24012(12)/87-D.IV(B)/IR(Coal-3)]

का. अ. 65.-श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार, भारत इंडियन ट्रायल एण्ड स्टील कं. लि. की नमूदीह जीवपुर कोलियरी के प्रत्यक्ष

से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निरिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-1989 को प्राप्त हुआ था।

S.O. 65.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. I), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Noonodih-Jitpur Colliery of Indian Iron & Steel Co. Ltd. and their workmen, which was received by the Central Government on the 11-12-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 24 of 1988

PARTIES :

Employers in relation to the management of Noonodih-Jitpur Colliery of M/s. Indian Iron & Steel Company Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra,

Presiding Officer.

APPEARANCES :

For the Employers.—Shri R. S. Murtly, Advocate.

For the Workmen.—Shri Anand Mohan Prasad, President, Coalfield Labour Union.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 23rd November, 1989

AWARD

By Order No. L-20012(231)/83-D.III(A), dated, the 17th/19th December, 1983, the Central Government in the Ministry of Labour, had, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication by the Central Govt. Industrial Tribunal No. 3, Dhanbad. Subsequently, the dispute has been transferred to this Tribunal vide Ministry's Notification dated 12-1-1988 :

"Whether the action of the management of Noonodih-Jitpur Colliery of Messrs Indian Iron & Steel Company Ltd., P.O. Bhaga, Dist. Dhanbad in refusing employment to Shri Satyanarain Singh, General Mazdoor Category-I, when he reported for duty on 4-1-1979 with medical certificate was justified? If not, to what relief is the said workman entitled and from what date?"

2. The case of the management of Noonodih-Jitpur Colliery of M/s. Indian Iron & Steel Co. Ltd., P.O. Bhaga, District Dhanbad, as appearing from the written statement, details apart, is as follows :

Since the concerned workman, Satyanarain Singh, was not in employment on 4th January, 1970 after termination of his employment in 1976 there was no question of his being allowed to resume duty. Besides, the dispute is over-stale.

The concerned workman was first appointed as a General Mazdoor in Category-I on 8th March, 1972 as daily rated worker. He was in service for a very short period. He report-

ed sick at the colliery Hospital of the management with effect from 26th January, 1974 and was on sanctioned leave for 15 days. As a matter of fact he was under the treatment of the Colliery Hospital for about 15 days and thereafter, instead of resuming duty, left the colliery without any intimation to the management or permission or without any satisfactory cause. His whereabouts were not known to the management. Under the Standing Order of the colliery if a workman remains absent beyond the period of leave originally granted or subsequently extended, and fails to explain to the satisfaction of the management his inability to return on the expiry of leave, he shall lose lien on his employment. In terms of the provisions of the Standing Order, he automatically lost his lien on his employment and ceased to be in the employment of the management. Alternatively, he was guilty of misconduct in view of continuous absence from duty without permission and without satisfactory cause for more than 10 days and his subsequent termination of service amounted to dismissal on account of such misconduct. However, no formal domestic enquiry was held because there was no trace of him and his whereabouts were not known. In the circumstances the employer shall produce evidence on merit of the case. Apart from the above contentions the concerned workman should be deemed to have abandoned his employment as he was not interested therein. Had he been genuinely sick/ill, he ought to have continued treatment in the Colliery Hospital which he did not. The management provides free treatment in the hospital at Burnpur to its workers and in the case of serious illness free treatment is available in the Central Hospital of the Coal Mines Welfare Organisation at Dhanbad. Hence the story of the concerned workman that he was ill cannot be believed. The medical certificate produced by him is neither genuine nor true and cannot be relied upon, accepted or entertained at all. In view of the facts and circumstances the concerned workman ceased to be in the employment of the management long before 4th January, 1979 and hence the management was perfectly justified in refusing him employment. It is submitted that he is not entitled to any relief whatsoever.

3. The case of the sponsoring union, Coalfield Labour Union, as appearing from the written statement submitted on behalf of the concerned workman, briefly stated, is as follows :

The concerned workman was under the employment of the management he was taken ill and underwent treatment at Colliery Hospital from 26th January, 1974 for a fortnight. During the course of treatment he got mentally derailed and left his place of employment without intimating to any of his relative or his employer. He was under the treatment of a medical practitioner and returned to the colliery with a medical certificate indicating his illness from 14th December, 1974 to 23rd September, 1978. The Medical Officer of the colliery issued a fitness certificate, but the management without any reference to him struck off his name from the roll of the colliery. It is submitted that it was the duty of the management to serve notice of termination of his service. His services were terminated unilaterally which is against the principle of natural justice. The management has also failed to take action as stipulated under the Standing Orders. In the circumstances, the union has submitted that the action of the management in terminating the service of the concerned workman and refusing employment to him when he reported for duty on 4th January, 1979 is unjustified and illegal.

4. In rejoinder to the written statement of the sponsoring union, the management has reiterated its own case and asserted that the period of absence of the concerned from 10th February, 1974 to 13th December, 1974 has not been explained. No reason has been given as to what the concerned workman was doing after 23rd September, 1978. On the face of it the medical certificate is fake and fictitious. It is alleged that the concerned workman was not ill at all. The management issued an order on 2nd April, 1976 terminating the service of the concerned workmen for his long absence without intimation. A copy of the said order was sent to the permanent address of the concerned workman and another copy was displaced on the Notice Board of the colliery. The management has denied and disputed the statement of facts as made in the written statement of the sponsoring union.

5. In rejoinder to the written statement of the management, the sponsoring union has stated that the case is not

stale or against law. The management ought to have served notice on the concerned workman intimating its desire to terminate his service for long absence. The concerned workman could not resume his duty under a peculiar circumstance arising out of his mental derailment. He left the place of his employment and in support of his illness he produced medical certificate by a medical practitioner which is a valid document. He has taken every step for securing his employment. There is only a gap of three years when he was labouring under mental disorder.

6. The management, in support of its action, has examined only one witness P. C. Tiwary, now posted as Asstt. Manager (Personnel) in Noonodih Jitpur Colliery of M/s. Indian Iron & Steel Co. Ltd. and laid in evidence a number of documents which have been marked Exts. M-1 to M-4. On the other hand, the sponsoring union has examined only one witness WW-1 Ram Narain Ahir and laid in evidence a number of documents which have been marked Exts. W-1 to W-5. The sponsoring union has not or could not examine, it is noticed, the concerned workman.

7. Admittedly, the concerned workman was appointed as a General Mazdoor in Category-I (daily rated) in Noonodih-Jitpur colliery with effect from 8th March, 1972 and that he reported sick and was on sanctioned leave for 15 days with effect from 26th January, 1974 and that he underwent treatment in the colliery hospital for the period he was on leave.

The case of the management is that instead of resuming duty after expiry of sanctioned leave, the concerned workman left the colliery without any intimation to the management or without any permission or any satisfactory cause and his whereabouts were also not known to the management. The sponsoring union has asserted that during the course of treatment the concerned workman got mentally derailed and left the place without intimating to his relative or his employer.

8. The concerned workman has not examined himself in this case although ample opportunity was given to him. There is no vestige of evidence on record to indicate that during the course of his treatment at the colliery hospital he got mentally derailed, and left his place of employment without intimating to any of his relative. MW-1 P. C. Tiwary, Asstt. Manager (Personnel) has deposed on behalf of the management. The sponsoring union has not asked him anything as to the exact nature of ailment the concerned workman was suffering from. That being so, the sponsoring union has failed to prove that the concerned workman, during the course of his treatment in the colliery hospital, got mentally derailed and left the place of his employment without intimating his relative.

9. It appears from the pleadings of the parties arrayed that the concerned workman turned up at the colliery on 4th January, 1979 with a medical certificate of fitness and of his having suffering from the ailment of mania from 14th February, 1974 to 23rd September, 1978 (Ext. W-2 which corresponds to Ext. M-3). The concerned workman also submitted an application to permit him to join duty on the same date (Ext. M-4). He was examined by the colliery doctor who found him fit (Ext. W-1). But the management did not allow him to resume duty because earlier by Office Order dated 8th March, 1976 the management declared that he left the service of the company of his own accord with effect from 13th February, 1974 (Ext. M-1). In other words, the management took this position that the concerned workman abandoned his service. In order to abandon the service the question of intention is the prime factor which should be gathered from the facts and surrounding circumstances. The concerned workman was employed in a very humble capacity in the colliery. Admittedly, he reported sick and was on sanctioned leave for 15 days. Thereafter he over-stayed for over two years when the management issued the Office Order declaring that he abandoned his employment. There is no earthly reason for the concerned workman to abandon his employment. Hence, the prime factor of intention to abandon employment is wanting here. That being so, I come to the conclusion that the concerned workman did not abandon his service as the management would have made me to believe.

10. Even then the fact remains that the concerned workman absented himself beyond the period of leave originally granted.

Shri R. S. Murthy has submitted that the concerned workman has lost his lien on his appointment and drawn my attention to clause 11 of the certified Standing Orders of the col-

liery (Ext. M-2). Indeed, clauses 11 and 12 of the certified Standing Orders comprehend case of absence from duty beyond the period of leave originally granted. The provisions of clauses 11 and 12 are gleaned hereinbelow :—

"11. Any direct employee of the Company other than a miner or loader who desires to obtain leave of absence shall apply in writing to the head of his departmental or the Manager of the colliery. Employees who due to illiteracy do not apply in writing must apply verbally. If the employee remains absent beyond the period of leave originally granted or subsequently extended he shall lose his lien on his appointment unless :—

- (1) he returns within 8 days of the expiry of the leave, and
- (2) gives an explanation to the satisfaction of the Manager of his inability to return before the expiry of leave. In case the employee loses his lien on the appointment he shall be entitled to be kept on the 'Badli' list.

If leave is refused or postponed the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a Leave Register to be maintained for this purpose and if the employee so desires, a copy of such entry in the Register shall be supplied to him.

12. Notwithstanding anything mentioned above, any employee who overstays his sanctioned leave or remains absent without properly approved leave will render himself liable for disciplinary action."

11. Thus, from the provisions of Certified Standing Orders it is obvious that the concerned workman lost his lien on his appointment. Nevertheless, Clause 12 envisages that in such circumstances the concerned workman will render himself liable for disciplinary action. In other words, the provisions of Clauses 11 & 12 envisage that although a workman may lose his lien on appointment if he remains absent from duty beyond the period of leave originally granted and does not return within 8 days of the expiry of the leave and give satisfactory explanation to the management of his inability to return before expiry of his leave, his services cannot be dispensed with without any disciplinary action. He may lose his right on his employment but that does not mean that his services will come to an end by automatic process without having recourse to disciplinary action by the management. Admittedly, in the present case no disciplinary action was initiated by the management. Nevertheless, the management has laid evidence on merit of the case.

The case of the management is that the concerned workman absented himself from duty after the expiry of sanctioned leave without intimation to the management or without any reasonable cause.

The sponsoring union, on the other hand, has asserted that since the concerned workman was suffering from mental derailment, he left his place of employment without any intimation to his relative or to the management. Indeed, he did not inform the management about his illness. It appears from a letter dated 20th January, 1979 written by the Secretary, Rashtriya Colliery Mazdoor Sangh to the Area Manager, Jitpur Colliery (Ext. W-3) that the concerned workman was sick at home and he was sending information from time to time along with medical certificate. It transpires from the evidence that the concerned workman was a member of R.C.M.S. earlier and thereafter he changed his allegiance to Coalfield Labour Union. Anyway, there is no evidence on record that the concerned workman had sent any information to the management from time to time with medical certificate as claimed by the Secretary, R.C.M.S. It appears from the letter written by Sri Chandra Sekhar Choubey dated 26th October, 1981 (Ext. W-5) to the management that Ramadhar, father of the concerned workman, a piece-rated worker of Jitpur colliery was not physically fit and submitted application for voluntary retirement from service. The father of the concerned workman did not spare any pain to inform the management about the illness of his son.

12. MW-1 P. C. Tiwary has stated that the concerned workman reported sick on 26th January, 1974 at colliery

hospital and that he was on sanctioned leave for 15 days and underwent treatment at colliery hospital from 26th January, 1974. He has stated that after expiry of leave the concerned workman neither reported for duty nor did he report to the hospital for further treatment. He did not even inform the management regarding his absence and his absence was unauthorised. In order to counter this position the sponsoring union has submitted the medical certificate of Dr. Lal dated 23rd September, 1978. This certificate (Ext. M-3 which corresponds to Ext. M-2) indicates that the concerned workman was suffering from mania from 14th February, 1974 to 23rd September, 1978. Even if this certificate is believed then there is no account for the absence of the concerned workman from duty from 10th February, 1974 to 13th February, 1974. Then again there is no explanation as to why the concerned workman remained absent from 24th September, 1978 to 3rd January, 1979. Medical certificate by itself is not admissible in evidence of the facts stated therein unless the doctor is examined. Here in the present case the doctor has not been examined. Besides, as I have stated above there is no account as to why the concerned workman remained absent from 10th February, 1974 to 13th February, 1974 and again from 24th September, 1978 to 3rd January, 1979. The concerned workman is the best person to explain the circumstance, but he has not come forward to examine himself in support of his case. This being the position, I have no hesitation to hold that the concerned workman remained absent from duty after expiry of sanctioned leave for more than 8 days without any satisfactory explanation. In the circumstances he lost his lien on his appointment in terms of clause 11 of the certified Standing Order. In this view of the matter the action of the management in refusing employment to him from 4th January, 1979 is justified. But in terms of clause 11 of the certified Standing Orders the management is directed to keep the name of the concerned workman on the 'Badli' list.

13. Accordingly, the following award is rendered—the action of the management in refusing employment to the concerned workman from 4th January, 1979 is justified. The management is directed to keep his name on the 'Badli' list and inform him to join his duty as and when required.

In the circumstances, I award no cost.

S. K. MITRA, Presiding Officer
[No. L-20012(231)/83-D III(A)/IR (Coal-I)]

का. अ. 66—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार, जिसमें भारत कोकिंग कोल लि. का 'लोयाबाद कोक प्लांट' के प्रबन्धन से सम्बद्ध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-1989 को प्राप्त हुआ था।

S.O. 66.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Loyabad Coke Plant of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 11-12-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 25 of 1988

PARTIES :

Employers in relation to the management of Loyabad Coke Plant of Messrs Bharat Coking Coal Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri S. Bose, Secretary, Rashtriya Colliery Mazdoor Sangh.

STATE : Bihar

INDUSTRY : Coal

Dated, the 27th November, 1989

AWARD

By Order No. L-20012(218)/83-D.III (A), dated, the 17th/19th December, 1983, the Central Government in the Ministry of Labour, had, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to the Central Government Industrial Tribunal No. 3, Dhanbad. Subsequently, the dispute has been transferred to this Tribunal vide Ministry's Order No. L-11025(71)/87-D.IV (B), dated 31st December, 1987/12th January, 1988 :

"Whether the action of the Management of Loyabad Coke Plant of Messrs Bharat Coking Coal Limited in not preparing seniority lists of clerks grade-I and special grade clerks and, at the same time, elevating survashri H. K. Ghosh and Kameshwar Singh to special grade without holding D.P.C. is justified? If not, to what relief is Shri Naimul Hussain Ansari, a grade-I clerk from 1-6-1973, is entitled in view of the Cadre Scheme of M/s. B.C.C. Ltd. in vogue?"

2. The case of the management of Loyabad Coke Plant of M/s. B.C.C. Ltd. as appearing from the written statement submitted on its behalf, details apart, is as follows :

The present dispute is not legally maintainable. Promotion is a function of the management and no workman can demand for promotion as a matter of right. The management introduced promotion Scheme in 1977 for effecting promotion in respect of clerical staff of different grades. The seniority is the first condition in the case of Grade-III and Grade-II clerks for their promotion to the next higher grade. The seniority is decided colliery-wise in case of Grade-III clerks whereas the same is decided Area-wise in case of Grade-II clerks. The promotion from Grade-I to Special Grade is considered on the basis of seniority-cum-suitability, the seniority being considered Area-wise. The concerned workman, Naimul Hussain Ansari, was a Grade-II Clerk at the time of nationalisation of Loyabad Coke Plant and he was promoted to Grade-I Clerk in the year 1978 after introduction of the promotion scheme. He has been working as P.O.'s clerk of Loyabad Coke Plant. The P.O.'s clerk is entitled for Grade-II only. Considering his qualification and experience in the present department, the concerned workman has been kept in that department keeping in view more efficient discharging of his duties. The demand of the concerned workman for promotion to Special Grade is un-reasonable as because that will cause anomaly and many workman in Grade-I who are senior to him will claim for Special Grade. The management cannot justify placing him in Special Grade merely on the basis of his qualification alone dis-regarding the rules of promotion as the same will cause several problems. He has been performing duties of Grade-II Clerk and is placed in Grade-I Clerk taking into consideration his efficiency in performance of duties. The demand of the Union for placing him in Special Grade is based on favouritism and the management cannot show any special favour to a workman on the basis of recommendation of a Union. In some special case where any workman has been performing special nature of jobs requiring higher skill and special knowledge and categories as Special Grade jobs, the question of regularisation in Special Grade was considered and granted, but it cannot be done in all cases which will make the system of promotion nugatory. In the circumstances, the management has prayed that its action in not placing the concerned workman as Special Grade Clerk be held to be justified.

3. The case of the concerned workman, as appearing from the written statement on his behalf by the sponsoring Union, Rashtriya Colliery Mazdoor Sangh, briefly stated, is as follows :

The concerned workman is a permanent employee engaged as Personal Assistant in the Personnel Section of Loyabad Coke Plant in Loyabad Colliery of Sijua Area No. V of M/s. B.C.C. Ltd. with effect from 1-6-78. The management promoted two other employees of Grade-I to Special Grade, whose position in Grade-I was as follows :

- (i) H. K. Ghosh, Clerk Grade-I from 1-6-78.
- (ii) Kameshwar Singh, Clerk Grade-I from 26-9-79.

The aforesaid two workmen have been promoted by the management of M/s. B.C.C. Ltd. to Special Grade in early 1983 whereas the claim of the concerned workman was not considered. In the case of promotion of the above two employees no D.P.C. was held. The Union has alleged that the concerned workman has been discriminated against by the management by depriving him from his due promotion to Special Grade with serious prejudice to his career. Anyway, the matter of his promotion to Special Grade was taken up with the management of M/s. B.C.C. Ltd. by the Union of the workman, but to no effect. Thereafter the union raised an industrial dispute before the Asstt. Labour Commissioner (C), Dhanbad who held conciliation proceeding. But that ended in a failure due to the adamant attitude of the officers of the management. The appropriate Government, after receiving the report of failure of conciliation, has been pleased to refer the present dispute for adjudication by the Tribunal. The action of the management is out and out unjustified, arbitrary and is an act of discrimination and unfair labour practice. In the circumstances, the sponsoring union has prayed that the action of the management be held to be not justified.

4. In rejoinder to the written statement of the sponsoring union submitted on behalf of the concerned workman, the management has stated that the concerned workman has been working as Personnel Officer's Clerk and that there is no such post as Personnel Assistant in the Personnel Section of Loyabad Coke Plant. S/Shri H. K. Ghosh and Kameshwar Singh were regularised in Special Grade as they were performing the duties of Special Grade Clerks. Employees performing higher jobs are regularised in service. The concerned workman does not perform the duties of Special Grade and therefore his case does not fall within the category of regularisation and squarely falls within the category of promotion. His case was considered along with other Grade-I Clerk of the Area, but the D.P.C. did not recommend his case for promotion as he was not found fit. His case is different from the facts relating to regularisation to H. K. Ghosh and Kameswar Singh. The management has denied the other statements of the sponsoring union in support of the claim of the concerned workman.

1. The management has examined two witnesses, namely, MW-1 Kameswar Singh and MW-2 H. K. Ghosh who have been regularised as Special Grade Clerk as claimed by the management and laid in evidence certain documents which have been marked Exts. M-1 to M-1/3. On the other hand, the sponsoring union has examined the concerned workman and laid in evidence certain documents which have been marked Exts. W-1 to W-3.

6. The concerned workman has stated in his evidence that he joined the service at Loyabad Coke Plant on 15-6-71 during the period when the Plant was under the private ownership. In support of his testimony the concerned workman has produced his letter of appointment dated 16-6-71 issued by the Superintendent, Loyabad Coking and Bi-product Recovery Plant (Ext. W-3). Upon a perusal to this letter of appointment it is obvious that the concerned workman was offered the post of Trainee (General Office) at the Plant on a fixed allowance of Rs. 100 per month for a period of two years from 15-6-1971 upon certain conditions. The management has not adduced any evidence to disprove this fact. This being the position, I come to the conclusion that the concerned workman joined the service of Loyabad Coking

and Bi-product Recovery Plant on 15-6-71 as Trainee. Undisputedly the management of Loyabad Coke Plant was taken over by the Central Government simultaneously with the Loyabad Colliery with effect from 17-10-1971 and that both the Colliery and the Plant were nationalised with effect from 1-5-1972.

7. The management has not disclosed the details of service career of the concerned workman in its written statement. Anyway, the sponsoring union has emphatically stated that the concerned workman was a permanent employee engaged as Personal Assistant in the Personnel Section of Loyabad Coke Plant in Loyabad Colliery of Sijua Area No. V of M/s. B.C.C. Ltd. w.e.f. 1-6-78. The management has disputed only the fact that the concerned workman was not engaged as Personal Assistant but as P.O.'s Clerk; but has not disputed that he is a permanent employee and employed in Personnel Section of Loyabad Coke Plant of Loyabad Colliery with effect from 1-6-1978. The concerned workman has stated that since 1-6-1978 he was working as P.O.'s Clerk in Loyabad Coke Plant and that before 1-6-78 he was placed in Clerk Gr. II but since 1-6-78 he has been placed in Clerk Grade-I.

8. He has not been cross-examined on this point. Besides, the sponsoring union has produced photo copy of Office Order dated 14-12-78 (Ext. W-1) bearing out the position that the concerned workman was promoted to Clerk Grade-I with effect from 1-6-78. That being so, the position is clinched that before 1-6-78 the concerned workman was working as P.O.'s Clerk in Loyabad Coke Plant and was placed as Clerk in Grade-II and since 1-6-78 he has been placed as Clerk in Grade-I of Loyabad Coke Plant.

9. The concerned workman has stated in his testimony that he is an M.A. in Sociology from the University of Bhagalpur and holds diploma in Personnel Management and Industrial Relation from L. N. Misra University of Social Study, Patna. His academic qualification has not been disputed by the management. In the present case the sponsoring union has compared the case of the concerned workman who has been statignating as Clerk Grade-I since 1-6-78 with the cases of S/Sri H. K. Ghosh and Kameshwar Singh. The academic qualification of Sri H. K. Ghosh is not available on record. But Sri Kameshwar Singh figuring as MW-1 has stated that he graduated with honours in economic from Bihar University, Muzaffarpur. Thus, it is seen that so far as academic qualification is concerned, the concerned workman is an M.A. in Sociology and he also holds diploma in Personnel Management and Industrial Relation while the academic qualification of one of his co-worker i.e. Sri H. K. Ghosh is not available and the other, namely, Kameshwar Singh is an B.A. with honours in economics.

10. The management has disclosed in its written statement that the seniority is the first consideration for promotion of Grade-III and Grade-II clerks to the next higher grade and that the seniority is decided colliery-wise in case of Grade-III Clerks whereas the same is decided areawise in the case of Grade-II Clerks. The management has further disclosed that the promotion from Grade-I Clerk to Special Grade is considered on the basis of seniority-cum-suitability, the seniority being considered areawise. This statement of facts have not been disputed by the sponsoring union. Admittedly, the concerned workman and his two other colleagues were working in Sijua Area. Seniority list Ministerial Staff of Sijua Area as on 1-1-80 Grade-I of non-finance discipline has been submitted by the sponsoring union (Ext. W-2). In the seniority list the name of Sri H. K. Ghosh, the concerned workman and Sri Kameshwar Singh appear at Sl. Nos. 77, 85 and 86 respectively. Thus, it is seen from the seniority list that Sri H. K. Ghosh is senior to the concerned workman whereas Kameshwar Singh is junior to him in service. The date of appointment of the concerned workman has been shown as 1-6-73 in the seniority list. But the concerned workman has emphatically stated that he joined the service of Loyabad Coke Plant on 15-6-71 and his date of appointment has not been correctly disclosed in the seniority list. He has produced his letter of appointment dated 15-6-71 issued under the signature of Sri Dipankar Gupta, the then Superintendent of Loyabad Coke Plant. The management could not produce a whit of evidence to disprove this fact. Only it has been suggested that the letter of appointment

has been manufactured and concocted. But suggestion is not enough. The management has not disputed the signature of Sri Dipankar Gupta on the letter of appointment (Ext. W-3). The signature of Sri Dipankar Gupta agrees with his signature as appearing in the Office Order dated 14-12-78 (Ext. W-1). This being so, I have no hesitation to hold that the suggestion of the appointment letter of the concerned workman being a manufactured and concocted one is a figment of imagination. Thus, if the date of appointment of the concerned workman is considered to be 15-6-71 then he is senior to Sri H. K. Ghosh even. There is no earthly reason why the date of appointment of the concerned workman shall not be considered to be 15-6-71.

11. The sponsoring union has asserted in its written statement that S/Shri H. K. Ghosh and Kameshwar Singh were promoted as Clerk Grade-I from 1-6-78 and 29-6-78 respectively and that the concerned workman was promoted as Grade-I Clerk with effect from 1-6-78. This position is borne out from the seniority list (Ext. W-2). Besides, the order of promotion of the concerned workman confirms the fact that he was promoted as Clerk Grade-I with effect from 1-6-78 (Ext. W-1). Thus, from the facts as gleaned from the evidence on record the service particulars of the concerned workman and his two other colleagues are as follows :

Name	Academic qualification	Date of appointment	Date of appointment as Gr. I Clerk
H. K. Ghosh	Not known	18-10-71	1-6-87
Kameshwar Singh	B.A. (Honours)	20-8-73	29-6-78
Namul Hus. sar.	(i) M.A.	15-6-71	1-6-76
Ansari	(ii) Diploma in Personnel Management and Indus. and Industrial Relation.		

The concerned workman has testified that S/Sri H. K. Ghosh and Kameshwar Singh got promotion to Special Grade with effect from 1-1-82 and that they have since been promoted to Technical Grade 'A' with effect from 1-1-88. He has further stated that both of them got promotion from Clerk Grade-I to Special Grade without appearing before D.P.C. and after 1-1-80 no D.P.C. was held in respect of promotion of Clerks in Clerical Grade-I. The management has taken the position that D.P.C. was held but it did not recommend the case of the concerned workman for promotion as he was not found fit. But there is no vestige of evidence in support of the fact that D.P.C. was held and the case of the concerned workman was not recommended as he was not found fit.

Sri B. Joshi, Advocate for the management has candidly admitted that no D.P.C. was held and the statement of fact by the management that D.P.C. was held and the case of the concerned workman was not recommended is not correct. Sri Joshi has further submitted that S/Sri H. K. Ghose and Kameshwar Singh were regularised as Special Grade Clerk in view of the special nature of job of higher post performed by them. MW-2 H. K. Ghosh has stated that Sri R. K. Sinha, Sr. A.O. gave him extra load of work, such as, purchase of furniture and other special type of work and that the management initiated notesheet recommending his regularisation as Special Grade Clerk. He has proved the notesheet marked Ext. M-1. The notesheet indicates that Sri Ghosh is very sincere and labourious worker and maintaining all important files etc. He always assists Sr. A.G./O.S. as and when required. In absence of the dealing assistants, he manages the Executives Sick/Leave work, the work of Company's contract buses and the work of Wage Board employees. Thus, it is seen that load of work of Sri Ghosh may perhaps be much, but he did not perform any duty while he was posted Grade-I Clerk requiring special skill or knowledge.

11. It appears from the evidence of Sri Kameshwar Singh that after his promotion to the post of Grade-I Clerk he was posted in Finance Cadre from general cadre and was doing the work of accounts and that he was promoted to the post

of Special Grade Clerk in 1982. He has also stated that in 1977 he was sent for training in cost accounts. But his statement that after his promotion to Grade-I Clerk he was posted in Finance Cadre is incorrect because in the senior list he has been described as Provident Fund Clerk. There is no evidence that he used to perform any special type of job after his promotion to the post of Clerk Grade-I. Admittedly, the concerned workman has been working in P.O.'s office. He has asserted in his evidence that the management at the local level recommended his case for promotion. He produced certain papers in support of this contention, but those could not be admitted in evidence because of the documents being produced at the last moment.

12. The concerned workman has been stagnating in his present post as Clerk Grade-I since 1-6-78. He is otherwise competent to hold higher post. Despondency, dejection and frustration shall surely not spare him, but may even percolate to others like him who have been stagnating in the same post almost over a decade with satisfactory qualification and abilities. Implementation Instruction No. 34 dated 17-7-1984 of J.B.C.C.I. envisages five years experience as Clerk Grade-I for eligibility for promotion as Special Grade Clerk. In this view of the matter the concerned workman is adequately qualified for the post.

13. The promotion is a function of the management. But certainly the Tribunal can interfere in the domain of the management when such function has not been done properly by the management or such function has been done by the management in an unfair way. In the present case, I, considering all the facts as evidenced from the record, come to the conclusion that the management has not performed its function properly in considering the matter of promotion of the concerned workman. That being so, the action of the management in not promoting the concerned workman to higher post is not justified. The management is directed to consider the case of the concerned workman for promotion to higher post immediately as it has done in the case of S/Shri H. K. Ghosh and Kameshwar Singh in the past.

14. Accordingly, the following award is rendered—

The action of the management of Lovabad Coke Plant of M/s. Bharat Coking Coal Limited in not promoting the concerned workman to the higher post is not justified. The management is directed to consider the concerned workman for promotion to the higher post immediately.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer
[No. L-20012(218)/83-D.III (A)/IR (Coal-I)]

का.आ. 67.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लिमिटेड की कुयाकोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनेक में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण. (सं. 2). धनवाद के पंचपट की प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-1989 को प्राप्त हुआ था।

S.O. 67.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2). Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kuya Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 11-12-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

Reference No. 50 of 1985

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Kuya Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers.—Shri R. S. Murthy, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 1st December, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(108)/84-D.IV(B), dated, the 26th April, 1985.

THE SCHEDULE

“Whether the action of the management of Kuya Colliery of M/s. Bharat Coking Coal Ltd., Post Office Kuya, Distt. Dhanbad in not giving employment to 56 workmen (Annexure) is justified? If not, to what relief the workmen concerned are entitled?”

ANNEXURE

1. Shri Babulal Manjhi.
2. „ Dena Manjhi.
3. „ Budhan Tuddu.
4. „ 2 No. Devan Manjhi.
5. „ Manbodh Rajwar.
6. „ Gaju Manjhi.
7. „ Sonaram Manjhi.
8. „ Pachu Singh.
9. „ Suresh Bauri.
10. „ Pandu Manjhi.
11. „ 2 No. Bhuttu Manjhi.
12. „ 2 No. Baburam Manjhi.
13. „ Chandradev Gaud.
14. „ Sitaram Manjhi.
15. „ Sahdev Manjhi.
16. „ No. Chandu Manjhi.
17. „ 1 No. Shyamlal Manjhi.
18. „ Rasik Lal Manjhi.
19. „ 1 No. Munshi Manjhi
20. „ Baiju Manjhi.
21. „ Churka Soren.
22. „ Buddhan Manjhi.
23. „ Lobin Manjhi.
24. „ 2 No. Motilal Manjhi.
25. „ 3 No. Ishwar Manjhi.
26. „ Mitrajan Bhuiya.
27. „ Manki Bhuiya.
28. „ Saneda Marandi
29. „ Somar Bhuiya.
30. „ Anach Bhuiya.
31. „ Dailash Bhuiya.
32. „ Rudan Manjhi.
33. „ Lotan Bhuiya.
34. „ Chhaku Banjhi.
35. „ 3 No. Shyamlal Manjhi.
36. „ Teju Bauri.
37. „ Buddhu Modi.
38. „ Nanhak Bhuiya.
39. „ Tulsi Bhuiya.
40. „ Lakhiram Manjhi.
41. „ June Manjhi.
42. „ Dugai Mallick.
43. „ Moti Modi.
44. „ Ahalad Modi.
45. „ Dibu Manjhi.
46. „ Buddhu Modi.
47. „ Gour Modi.
48. „ Shri Charku Bhogata.
49. „ Sagru Bhogata.

50. „ Bhutanand Manjhi.
51. „ Barhan Manjhi.
52. „ Labeshwar Manjhi.
53. „ Binod Modi.
54. „ Buddhan Manjhi.
55. „ Jhuri Manjhi.
56. „ Churka Manjhi.

The case of the workmen is that the concerned 56 workmen were working as permanent miner/loaders of Kuya colliery of M/s. ECCL. They are tribal and Harijan illiterate workmen who had put in more than 190 days of attendance in each calendar year prior to their stoppage from service. They had absented for about a week without permission and without filing any applications for leave. When they returned back and reported for duty their work was stopped. It was a period when emergency had been declared by the Government and the management took advantage of the same and stopped the concerned workmen from their work without assigning any reason and without complying with the mandatory provision of Section 25F of the I.D. Act. The concerned workmen and their union represented before the management for their reinstatement but the management refused them to be reinstated on the ground that the concerned workmen had themselves resigned from their service and their resignation was accepted. It is submitted on behalf of the workmen that none of the concerned workmen had submitted their resignation at any time in the year 1976 or 1977. The management had removed the concerned workmen from service on the alleged ground of their resignation after manufacturing resignation letter taking advantage of the illiteracy of the concerned workmen. The concerned workmen did not withdraw their C.M.P.F. accumulation nor any of them withdrew the amount of gratuity. Even if any of the concerned workmen had withdrawn his C.M.P.F. accumulation the same will not debar them from claiming reinstatement. When the management did not pay any heed to the request of the concerned workmen and their union, an industrial dispute was raised by their union. The ALC(C), Dhanbad before whom the industrial dispute had been raised started conciliation proceeding but the same failed and thereafter on their failure report being sent to the Govt. the present reference has been made to this Tribunal for adjudication. Sl. No. 21, Sl. No. 34 of the annexure to the order of reference were also permanent employees of Kuya colliery but due to inadvertence there was some typing mistake in their names in the reference order but the Hindi version of the reference order has correctly described their names. On the above facts it is submitted that the action of the management in removing the concerned workmen from service and in not giving employment to them was illegal, arbitrary, unjustified and against the principles of natural justice. The action of the management was mala fide and against the provision of the standing orders. It is prayed on behalf of the workmen that the management should give employment with full back wages from the date of their stoppage from work.

The case of the management is that the dispute of the workmen is over stale and as such it should be rejected. The sponsoring union had raised the industrial dispute vide its letter dated 14-11-83 in respect of 60 workmen. It was found by the management at that time that atleast 2 of them namely S/Shri Bhado Manjhi and Narain Manjhi were still in service. Thereafter the present reference has been made in respect of 56 of the concerned workmen only. The concerned persons referred to at Sl. No. 21 Sanoda Marandi and Sl. No. 34 Chaku Banjhi of the annexure to the order of reference were never employed by the management and there were actually workers with the names of Saroda Marandi and Chaku Manjhi who had also submitted their resignation in 1976, 1977 and left the employment of the management after their resignation were accepted. The concerned workmen referred to at Sl. No. 55 Shri Jhuri Manjhi of the annexure to the order of reference had absented from duty without permission or sanction of leave which was a misconduct under the relevant provision of the Standing Orders, and disciplinary proceedings were started against him. The President of B.C.K.U. intervened in the matter and thereafter it was decided and agreed to employ him as badli miner/loader and he is still working under the management.

The remaining concerned persons referred to in the annexure to the order of reference except at Sl. No. 21, 34 and 55 who were working as miner/loader of Kuya colliery had submitted the resignation on different dates during the years 1976-79 and their resignation was duly accepted by the management. Thus the contract of employment between such persons and the management came to an end after their resignation and now they cannot raise the present dispute for giving them employment. Some of the concerned workmen out of the concerned workmen who had resigned and whose resignations were accepted had subsequently applied for refund of their C.M.P.F. dues and they withdrew the amount of C.M.P.F. contribution. The applications made by the concerned persons for the refund of their C.M.P.F. dues were forwarded by the management to the C.M.P.F. organisation and their claims were settled. Some of the concerned workmen had also withdrawn their gratuity after their resignation. The concerned workmen had never approached the management after their resignation for giving them employment. On the above facts it is submitted on behalf of the management that their action in not giving employment to the workmen concerned is justified and that the concerned workmen are not entitled to any relief.

The point for decision is whether the management was justified in not giving employment to the concerned 56 workmen.

The management examined 4 witnesses and the workmen examined 13 witnesses in support of their respective case.

The documents of the management have been marked Ext. M-1 to Ext. W-119. No document has been exhibited on behalf of the workmen.

FINDINGS

In nutshell the case of the workmen is that the management had stopped their work without giving them any notice and without complying with the provision of Section 25F of the I.D. Act. The case of the management, on the other hand, is that the concerned workmen had themselves resigned from their service and that their resignation were accepted and they left service and withdrew the amount of their C.M.P.F. contribution and some of them also withdrew the amount of gratuity. Before dealing with the evidence regarding the actual matter to be decided in this case I would like to dispose off a small matter which has been raised on behalf of the management objecting to the fact that the two workmen concerned were not the employees of the management and that one of them was still in service.

By now it is clear that the objection being raised by the management regarding the two workmen at Sl. No. 21 and 34 of the annexure to the order of reference is not correct. It is stated by the management that Sl. No. 21 Saroda Marandi (Saroda Marandi is not actually in Sl. No. 21 of the annexure but is at Sl. No. 28 and thus it appears that the objection of the management is in respect of Sl. No. 28 Saroda Marandi and not Sl. No. 21 Churka Soren). The other objection is in respect of Sl. No. 34 Chhaku Banjhi. The management accepts in para 6 of the W.S. that actually there are workers with the names of Saroda Marandi and Chhaku Manjhi. The case of the workmen is that there has been a typing mistake of their names and that they are actually Saroda Marandi and Chhaku Manjhi. It appears therefore that now it is admitted that those 2 workmen are Saroda Marandi and Chaku Manjhi and that their names are wrongly typed in the English version of the schedule. I hold therefore that now there is no dispute regarding the actual names of those two concerned workmen.

It is stated by the management that Jhari Manjhi at Sl. No. 55 of the annexure to the reference is still in service of the management. MW-3 has stated that Jhari Manjhi was absenting from duty but he was not stopped from duty and that on the intervention of Shri A. K. Ray of B.C.K. Union, Jhari Manjhi was allowed to resume his duties after medical examination. The said fact has not been denied in the evidence of the workmen. I hold therefore that Sl. No. 55 Jhari Manjhi is still in the service of the management and as such there can be no dispute regarding him for giving

him employment. Thus the case now remains in respect of 55 of the concerned workmen named in the annexure to the order of reference.

The management has examined MW-1 Shri S. N. Tewary who was manager of Kuya colliery from May, 1971 to January, 1981. He has stated that when he was at Kuya colliery many workers had submitted their resignation and the said resignation were accepted and those workers left working in the colliery. He has stated that prior to their resignations they were absenting from their duties. He has examined resignation letters of some of the concerned workmen and acceptance of their resignation by the management and they are marked Ext. M-1 to M-45. He has stated the names of the workmen who had filed resignation letters and has also exhibited the order of acceptance of their resignations. He has further stated that the workmen whose resignation were accepted never again came back demanding employment nor they had made any demand that they did not file any petition for their resignations. He has stated that many persons had submitted their resignation in Kuya colliery withdrawal of C.M.P.F. dues. M-2 is Shri M. K. Gupta who was also the Manager of Kuya colliery from July, 1975 to May, 1977. It will thus appear that MW-1 had succeeded MW-2 as Manager of Kuya colliery. MW-2 has stated that a number of persons had filed their resignation when he was the Manager of Kuya colliery and that the said applications for resignation were accepted. He has stated as has been stated by MW-1 that prior to the submitted of their resignation they were absenting from duty since long. MW-2 has proved the resignation letter filed by the workmen and they have been marked as Ext. M-46 to M-74 and Ext. M-75 to M-96 are the resignation letters regarding acceptance of the resignation Ext. M-46 to M-74. He has stated that after the resignation of those workmen were accepted they did not turn up again for their work in the colliery. He has stated that some of the workmen whose resignation were accepted had applied for the return of the C.M.P.F. contribution. He has also proved the acceptance of the resignation letter of Chhurka Manjhi Ext. M-97.

MW-4 Shri Ramnaresh Prasad is working as the Head P.F. Clerk since 1-3-74 in Kuya colliery. He has stated that many persons had submitted their resignation in Kuya colliery between 1976 to 1979 and their resignation were accepted by the management. He has further stated that 14 of the persons who had resigned filed petitions for withdrawal of the P.F. and they are marked Ext. M-114 to M-114/13. He has stated that the forms were filled up by him and the concerned persons had given their LTI on their application in his presence. The said applications bear the signature of the Manager of Kuya colliery. He has stated that Ext. M-115 to M-115/45 are the forwarding letters which were sent to the Commissioner, C.M.P.F. Dhanbad along with the P.F. applications. He has stated that 28 workmen had applied for refund of P.F. and they were not in the prescribed form and those applications are marked Ext. M-116 to M-116/28. Ext. M-117 to Ext. M-117/22 are information letters given to the workmen regarding settlement of their refund claim. There are two other informations regarding the settlement of the refund claims of the workmen which are marked Ext. M-118 and M-118/1. He has prepared a statement regarding the summary of refund of C.M.P.F. Ext. M-119 of the workmen and it bears the signature of the Manager of Kuya colliery. These statements have been prepared on the basis of the documents exhibited in the case. Ext. M-119 shows that the names of the concerned workmen, their designation, father's name, their P.F. No. the amount of P.F. paid to them, and the date of payment. This has been prepared on the basis of the documents which I have discussed above. Almost all the 13 WWs who are workmen in the case have stated that they had received the amount through the post office but they were unable to say if it was the amount of C.M.P.F. It was specifically suggested to WWs that the said amount was the amount of their C.M.P.F. claims. It has nowhere been disputed that the amount paid to them through the post office was not the amount of the C.M.P.F. accumulation and one WWs admitted that the money was sent by Post Office. In view of the documents coupled with the evidence of the workmen themselves it appears that some of the concerned workmen had withdrawn the amount of their C.M.P.F. accumulation.

It has been vehemently submitted on behalf of the workmen that the concerned workmen did not resign from their service and that the management had stopped them from service when they came to join after being absent without permission for sometime. It has further been submitted that the management has not established that the applications of resignation bear the LTI of the concerned workmen and that the management ought to have established the LTI of the concerned workmen by getting the LTI of the workmen on their applications examined by finger print expert. Admittedly the management did not get the LTI on the letters of resignation examined by finger print expert. At page 3 of the cross-examination of MW-1 it was suggested that the application for withdrawal of the C.D.S. amount of the illiterate workmen was to be prepared by the office of the management on which the LTI of the concerned workmen were taken and those were converted as applications for their resignation by the office. The witness has denied to the said suggestion. But one thing has emerged out of the said suggestion that the concerned workmen had given their LTI on which the resignation applications have been written. Thus the LTI of the workmen on the applications of resignation filed by them is accepted and in this view of the matter even if the management did not examine the Finger Print Expert it cannot be said that the applications of resignation of the concerned workmen do not contain their LTI. The suggestion made to MW-1 on behalf of the workmen is significant to show that the concerned workmen had given their LTI which contains their resignation letter. The workmen had not established by any cogent evidence to show that the concerned workmen had given their LTI on Sada paper for the purpose of C.D.S. withdrawal and that the management had converted those papers into the resignation letters of the workmen. I hold therefore that the resignation letters exhibited in this case bear the LTIs of the respective concerned workmen and that they had in fact filed the resignation letters to the management and that their resignation were accepted.

MW-3 was working in the personnel department as clerk from 1972 to January, 1982 in Kuya colliery. He has stated that during the years 1976 to 1979 many workmen had submitted their resignation which was accepted by the management. He has stated that some of them had applied for the payment of gratuity. He has proved the 13 applications of the workmen who had applied for the payment of gratuity and they are marked Ext. M-98 to M-110. He has stated that the gratuity applications for payment were processed by the office and gratuity paid to them. He has also proved the register showing the payment of gratuity of workmen of Kuya colliery which is marked Ext. M-111. It will appear from his evidence and Ext. M-111 that the concerned workmen Tusi Bhuia, Samar Bhuia, Manki Bhuia, Anach Bhuia, Nanka Bhuia, Dhena Manjhi, Panchu Singh, Churka Manjhi, Lotan Bhuia, Kailash Bhuia, Teju Bauri, Binod Modi, and Budu Modi had received the amount of gratuity and that the payment of gratuity was made to them through cheque. Ext. M-112 is a statement showing particulars of the payment of gratuity to the above named 13 persons which has been prepared by MW-3. It gives the details of the 13 workmen, the date of application in Form-I, the amount of gratuity paid, cheque No. and its date and the name of the Bank from which the amount was withdrawn from the Bank. Ext. M-112 is supported by the register Ext. M-111. Ext. M-113 was received by the management from Shri R. D. Manjhi, Secretary, Bihar Colliery Kamgar Union Kuya Colliery regarding payment of gratuity to 4 persons. It was received in the office where MW-3 was working. MW-3 has stated that gratuity was paid to those 4 persons. He has also stated that all the concerned workmen were not entitled to gratuity under the Gratuity Act and as such all the concerned workmen had not been paid gratuity. Thus the evidence of MW-3 shows that some of the concerned workmen had actually withdrawn the amount of gratuity. The said fact has not been falsified.

The fact that the concerned workmen had actually filed their resignation and their resignations were accepted find support from the fact that they had withdrawn their C.M.P.F. accumulation and also that some of the concerned workmen had withdrawn their gratuity. On perusal of the appli-

cation or gratuity by employees it will appear that workmen are entitled to the amount of gratuity under sub-section 1 of Section 4 of the Payment of Gratuity Act, 1972 only after his superannuation, resignation after completion of not less than 5 years of continuous service or total disengagement etc. The workmen would not have been entitled to gratuity on mere stoppage of their work. Thus the fact that some of the concerned workmen had applied and withdrawn the amount of gratuity will establish the fact that they resigned from service and that their resignation had been accepted by the management. It will further appear that most of the concerned workmen had withdrawn the amount of C.M.P.F. accumulation. Even when most of the concerned workmen had withdrawn the amount of their C.M.P.F. accumulation they did not present in writing to the management that they were stopped from their employment and that the amount of their C.M.P.F. was being paid. The C.M.P.F. cannot make payment of the C.M.P.F. amount of a workman unless an application is made by a workman and the same is forwarded by the management. The mere fact of denial by the workmen at this stage when they have already accepted the amount of C.M.P.F. is not enough to show that the concerned workmen had not received and had not applied for the withdrawal of the C.M.P.F. amount. In my opinion the withdrawal of the amount of gratuity coupled with the withdrawal of the C.M.P.F. accumulation proves that the concerned workmen had actually resigned and their resignation was accepted and therefore they had preferred to withdraw their dues and actually accepted the amount of their dues of C.M.P.F. accumulation and gratuity.

It appears from the evidence that the concerned workmen had resigned from their service between the period 1976-1979 and had withdrawn the amount soon thereafter. Admittedly the present industrial dispute was raised for the first time before the ALC(C) Dhanbad on 14-11-83. There is no paper to show that the concerned workmen had made any demand in writing to the management for their employment since their stoppage of work. Had the concerned workmen not resigned from their service and their work had been stopped by the management without assigning any reason, the workmen must have demanded for their employment in writing to the management. The fact that they kept quiet from the time of stoppage of their work till 14-11-83 when the industrial dispute was raised also goes to show that as the concerned workmen had resigned from their service and their resignation was accepted, they did not raise any demand for their employment from the years 1976 to 1983. In case of stoppage of work by the management without any reason as is being alleged by the workmen, the workmen would not have kept quiet for a pretty long time. There is no explanation as to why the concerned workmen had kept quiet so long and in absence of the explanation it appears that the industrial dispute was raised after a great delay and the reason behind it was that they had actually resigned from their service and the same was accepted of which they had full knowledge resulting in withdrawal of their C.M.P.F. contribution and withdrawal of gratuity amount by some of the concerned workmen.

In view of the evidence and circumstances discussed above I hold that the concerned workmen had resigned from their service and that their resignation were accepted and now the concerned workmen cannot claim for employment as a matter of right when they themselves had resigned and left their service.

In the result, I hold that the action of the management of Kuya colliery of M/s. B.C.C. L. in not giving employment to the concerned workmen is justified and consequently they are entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-24012(108)/84-D.IV(B)/IR(Coal-I)]

नई दिल्ली, 22 दिसम्बर, 1989

का.ता. 66 - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचक में, केन्द्रीय सरकार, गैरमैन शायन कोविंग

कोल लिमिटेड का जोगिडीह कोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अतिरक्षण, (सं. 2) प्रस्ताव के पत्राट को प्रकाशित करती है।

New Delhi, the 22nd December, 1989

S.O. 68.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Jogidih Colliery of M/s. Bharat Coking Coal Ltd., and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 20 of 1983

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES:

Employers in relation to the management of Jogidih Colliery of Messrs Bharat Coking Coal Limited and their workmen.

APPEARANCES:

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 14th September, 1989

AWARD

The Government of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/389/82-D.III(A), dated the 23rd March, 1983.

SCHEDULE

“Whether the action of the management of Messrs. Bharat Coking Coal Limited, Area III in removing names of the workers, Sarvashri Binod Bouri and Sargun Bhuiya, from the rolls of Jogidih or Maheshpur Collieries is justified? If not, to what relief are these workmen entitled?”

In this case both the parties appeared and filed their respective W.S. documents etc. Subsequently when the case was fixed for oral evidence both the parties appeared and filed a petition of compromise. I hearing both the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the petition of compromise which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer

[No. L-20012(389)/82-D.III(A)/IR(Coal-I)]

K. J. DYVA PRASAD, Desk Officer

BEFORE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 20 of 1983

Employers in relation to the management of Jogidih Colliery of M/s. Bharat Coking Coal Limited, P.O. Sonardih;

AND

Their workmen.

PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference most respectfully sheweth :—

1. That the Central Government notification No. L-20012(389)/82-D.III(A) dated 16-3-83 has been pleased to refer the present dispute to the Hon'ble Tribunal for adjudication on the issue contained in the schedule of reference which is reproduced below :—

“THE SCHEDULE

“Whether the action of the management of M/s. Bharat Coking Coal Limited, Area No. III in removing the names of the workers S/Shri Binod Bouri and Sargun Bhuiya, from the roll of Jogidih Colliery or Maheshpur Collieries is justified? If not, to what relief are these workmen entitled?”

2. That the dispute has been amicably settled between the parties on the following terms :

TERMS OF SETTLEMENT

- (i) That the concerned workmen namely S/Shri Binod Bouri and Sargun Bhuiya will be allowed to resume duties as Miner/Loader within 15 days from the date they will report for their duties.
- (ii) It is agreed that the age of S/Shri Binod Bouri and Sargun Bhuiya should not be more than 45 years as on the date of the signing of settlement and provided those concerned workmen being found medically fit for the job of Miners/Loaders.
- (iii) That the workmen concerned will file affidavit in support of their genuinity at the time of reporting for their duties and the genuinity of the concerned workmen will be certified by Shri Rajendra Singh, Secretary, B.C.K.U., Jogidih Colliery.
- (iv) That the intervening period of idleness from the date of absence i.e. 25-9-76 and 2-5-76 in respect of Shri Binod Bouri and Sargun Bhuiya respectively till the date of resumption of their duties will be treated as leave without wages and continuity of their service will be maintained for the purpose of payment of gratuity. They will not be entitled for wages, bonus and another benefit for the entire period of idleness.
- (v) That if the concerned workmen do not report for duties with required documents within 40 days from the date of this settlement, they will forfeit from right of employment under the settlement and will have no claim in future of any kind against the management.
- (vi) That the management will have right to terminate the services of the concerned workmen named S/Shri Binod Bouri and Sargun Bhuiya in case their identity will be proved to be false.
- (vii) It is agreed that this an over all agreement/settlement in full and final settlement of all the claims of the workmen sponsoring union arising out of the aforesaid case.
- (viii) That the employer and the workmen submit the aforesaid settlement/agreement is fair just and reasonable to both the parties.

In view of the above agreement the employers and the workmen jointly prayed that the Hon'ble Tribunal may please be give an Award in terms of the above agreement and give an Award accordingly.

For the Employers
(S. N. P. RAT),
General Manager.

For the Workmen/Union
(D. MUKHERJEE),
Secretary

Bihar Colliery Kamgar Union/
Advocate, on behalf of the workmen.

(S. P. SINGH),
Personnel Manager.

(R. N. SINGH),
Vice-President,
Bihar Colliery Kamgar Union.

Witnesses :

1. Sd/-
2. Sd/-
- 3.

नई दिल्ली, 20 दिसम्बर, 1989

का.प्र. 69—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, अनुबंध में दर्शाए गए अनुसार राष्ट्रीय औद्योगिक अधिकरण, बंबई के पंचाट को प्रकाशित करती है, जो हिन्दुस्तान मशीन टूल्स लि., बंगलूर के प्रबंधक और श्री आर. एल. प्रसाद के बीच औद्योगिक विवाद के बारे में है।

New Delhi, the 20th December, 1989

S.O. 69.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the National Industrial Tribunal, Bombay, as shown in the Annexure, in the industrial dispute between the management of the Hindustan Machine Tools Ltd., Bangalore and Shri R. L. Prasad.

ANNEXURE

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL AT BOMBAY

—: Present —

Mr. Justice M.S. Jamdar,
Presiding Officer

COMPLAINT NO. NTB-3 OF 1988

(Arising out of Ref. No. NTB-1 of 1984)

PARTIES

R. L. Prasad, Time Recorder, : Complainant
T. No. 14520, PPC (205),
HMT Watch Factory I & II,
Talahalli, Bangalore-31.

V/s.

The Joint General Manager &
Incharge General Manager,
HMT Limited Watch Factory I & II,
Bangalore-560031. : Respondent

APPROVAL APPLICATION NO. NTB-38 OF 1988

(Arising out of Ref. No. NTB-1 of 1984)

PARTIES :

The General Technical Manager : Applicant
& Incharge General Manager.
HMT, Limited.
HMT Factory I & II,
H.M.T. Post, Bangalore-31.
V/s.

Shri R. L. Prasad,
T. No. 14520, Time Recorder.
PPC Section,
HMT Watch Factory I & II. : Opposite Party

APPEARANCES :

For the Management : Shri K. Jagdish Alva. Advocate.

For the Workman : Shri M.C. Narasimhan. Advocate.

INDUSTRY : Machine Tools

State : Karnataka.

Bombay, dated the 5th day of June, 1989.

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AWARD

The workman, Shri R. L. Prasad, the complainant in complaint No. NTB-3 of 1988, was dismissed from service by the management of the respondent company for misconduct during the pendency before this Tribunal of Reference No. NTB-1 of 1984 by an order dated 29-6-1986. The management of the HMT Ltd., simultaneously filed an application under section 33(2)(b) of the Industrial Disputes Act, 1947, for approval of this Tribunal to the dismissal. However, the management withdrew the said application on 14-11-1988, as proper amount was not paid towards one months' wages. The result was that there was no application for approval as required by provision to section 33(2)(b) of the Industrial Disputes Act, 1947. The workman, therefore, filed this complaint under section 33-A of the Industrial Disputes Act, 1947, for contravention of section 33(2)(b) of the Industrial Disputes Act, 1947, by the company by not seeking approval of the Tribunal to the dismissal. The complaint was filed before this Tribunal on 20th November 1988 and a notice returnable on 2-1-1989 was issued to the respondent on 6-12-1989. Thereafter, on 17-12-1988, but before the service of the notice, the management of HMT Ltd., withdrew the earlier dismissal order dated 29-6-1988 passed a fresh order of dismissal and simultaneously filed fresh approval application under section 33(2)(b) of the Industrial Disputes Act, 1947, (numbered as Approval Application No. NTB-38 of 1988), for approval of this Tribunal to the dismissal order dated 17th December 1988.

2. The management of HMT Ltd., has challenged the maintainability of the complaint in view of the withdrawal of the first dismissal order. The complainant workman (Opponent in the Approval Application) has also challenged the legality of the fresh dismissal order and maintainability of the fresh approval application. As both these questions are inextricably linked together and both the matters arise out of the same action of the management both these matters were heard together and are decided by this common

order, which will operate as an award in the complaint.

3. As mentioned above, the workman was dismissed from service for the mis-conduct of committing theft of company's property by an order dated 29-6-1988. Simultaneously, with the order the management of HMT Ltd., filed an application under section 33(2)(b) of the Industrial Disputes Act, 1947, for approval of this Tribunal to the said action which was taken during the pendency before this Tribunal of Reference No. NTB-1 of 1984. This application was withdrawn on 14-11-1988, on the ground that the amount which was forwarded alongwith the dismissal order fell short of one month's wages payable to the workman under proviso to section 33(2)(b) of Industrial Disputes Act, 1947. The effect of the withdrawal of the approval application was, as held by the Supreme Court in the case *Unjab Beevarages Pvt. Ltd. V/s. Suresh Chand* (1978 11 LLJ. page 1 (S.C.)) was that there was no application under section 33(2)(b) of the Industrial Disputes Act, 1947, for approval of the action taken by the management against the workman. Admittedly, the management did not withdraw the earlier dismissal order did not pass fresh dismissal order and did not file a fresh application for approval simultaneously or immediately after the earlier approval application was allowed to be withdrawn. As there was no application for approval of the dismissal order dated 29-6-1988, section 33(2)(b) was clearly contravened and hence the workman was justified in invoking section 33-A of the Industrial Disputes Act, 1947, which reads as follows:—

“Where an employer contravenes the provisions of section 33 during the pendency of proceedings (Before a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal), any employee aggrieved by such contravention, may make a complaint in writing, (in the prescribed manner):

- (a) to such conciliation officer of Board, and the conciliation officer of Board shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and
- (b) to such arbitrator, Labour Court, Tribunal or National Tribunal and on receipt of such complaint, the arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly.”

It is pertinent to note in this context that till the complaint was filed the management had not taken any steps to withdraw the earlier dismissal order to pass a fresh dismissal order and to file a fresh approval application under section 33(2)(b) of the Industrial Disputes Act, 1947. The contention of the management that in view of the withdrawal of the earlier

dismissal order in respect of which breach of section 33(2)(b) was committed the complaint is not maintainable deserves to be rejected. It is also difficult to accept the contentions that in view of the withdrawal of the first dismissal order and passing of the second, the complaint does not survive. That would not be the effect of withdrawal of the dismissal order. The result of the withdrawal of the first dismissal order would be that the complaint has to be allowed straight-way and the workman reinstated in service.

4. As mentioned above, section 33(2)(b) was clearly contravened because there was no application filed by the Company, much less simultaneously, for approval of the dismissal order passed on 29-6-1988. The workman therefore was entitled to invoke section 33-A of the Industrial Disputes Act, 1947, and challenge the said dismissal order itself. A complaint under section 33-A has to be adjudicated upon by the Tribunal as if it were a dispute referred to or pending before it, in accordance with the provisions of the Industrial Disputes Act, and it is incumbent on the Tribunal to submit its award to the appropriate Government. By the complaint the workman raised an industrial dispute in respect of his dismissal from service. He was entitled to challenge the dismissal order in the proceeding under section 33-A and this Tribunal was bound to adjudicate upon the said dispute. While doing so this Tribunal was bound to consider whether any proper enquiry was held against the workman; whether the dismissal order was justified and whether the punishment inflicted on the workman was adequate or unduly harsh. Consequently it was incumbent on the management to establish that the dismissal order was passed after fair and proper enquiry, that the management was completely justified in passing the dismissal order and that the punishment inflicted was not disproportionately harsh. The management could not have forestalled or put an end to this adjudication by withdrawing the dismissal order under challenge and substitute it by a fresh order. The only result of the withdrawal of the first dismissal order during the pendency of complaint under section 33-A, challenging the said order would be that the dismissal order was not justified and deserves to be set aside. The unilateral withdrawal of the earlier dismissal order during the pendency of the complaint in which the said order is under challenge clearly means that the management accepted the position that the dismissal order under challenge was not justified on merits. The result would be that the complaint must be allowed and the dismissal order dated 29-6-88 must be set aside and the workman reinstated in service with effect from that date. As a logical corollary of this result would be that the fresh dismissal order is rendered void and illegal and the application for approval of this order is not maintainable. It has to be dismissed forthwith.

5. The complaint is allowed, the dismissal order dated 29-6-1988, is set aside and the workman is directed to be reinstated in service with full back wages. The fresh dismissal order dated 17-12-1988, is declared illegal and Approval Application No. NTB-38 of 1988 is dismissed as not maintainable. Award accordingly.

M. S. JAMDAR, Presiding Officer
[No. L-51037/2/83-T&E(SS)]

का.प्र. 70.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रिय सरकार, अनुबंध में दर्शाए गए अनुसार, राष्ट्रीय औद्योगिक अधिकरण, बंबई के पंचाट को प्रकाशित करता है, जो हिन्दुस्तान मशीन टूल्स लि., बंगलूर के प्रबंधन और श्री पी. अश्वथनारायण के बीच औद्योगिक विवाद के बारे में है।

S.O. 70.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the National Industrial Tribunal, Bombay, as shown in the Annexure, in the industrial dispute between the management of Hindustan Machine Tools Ltd., Bangalore and Shri P. Ashwathanarayana.

ANNEXURE

BEFORE THE NATIONAL INDUSTRIAL
TRIBUNAL AT BOMBAY
COMPLAINT NO. NTB-4 OF 1988
(Arising out of Ref. No. NTB-1 of 1984)

PARTIES :

P. Ashwathanarayana, T. No. 13770 PPC,
HMT Watch Factory, Jalahalli, Bangalore-
31.—Complainant.
V/s.

Joint General Manager & Incharge General
Manager, HMT Ltd., Watch Factory-I &
II, Bangalore-31.—Respondent.

APPROVAL APPLICATION NO. NTB-37 OF 1988
(Arising out of Ref. No. NTB-1 of 1984)

PARTIES :

General Technical Manager & Incharge General
Manager, HMT Limited, Watch Factory I
& II, HMT Post, Bangalore-560 031.—
Applicant.
V/s.

Shri P. Aswathanarayana, T. No. 13770, Helper
WG-II, PPC Section, HMT Watch Factory I
& II.—Opposite Party.

APPEARANCES :

For the Management—Shri Jagdish Alva,
Advocate.

For the Workman—Shri M. C. Narasimhan,
Advocate.

Industry—Machine Tools.
State : Karnataka.

Bombay, dated the 5th day of June, 1989.

AWARD

The workman, Shri P. Ashwathanarayana, the complainant in complaint no. 4 of 1988, was dismissed from service by the management of the respondent company for mis-conduct, during the pendency before this Tribunal of Reference No. NTB-1 of 1984, by an order dated 29-6-1986. The management of the HMT Limited, simultaneously filed an application under section 33(2)(b) of the Industrial Disputes Act, 1947, for approval of this Tribunal to the dismissal. However, the management withdrew the said application on 14-11-1988, as proper amount was not paid towards one month's wages. The result was that there was no application for

approval as required by proviso to section 33(2)(b) of the Industrial Disputes Act, 1947. The workman, therefore, filed this complaint under section 33-A of the Industrial Disputes Act, 1947, for contravention of section 33(2)(b) of the Industrial Disputes Act, 1947, by the company, by not seeking approval of the Tribunal to the dismissal. The complaint was filed before this Tribunal on 20-11-88 and a notice returnable on 2-1-1989 was issued to the respondent on 6-12-1989. Thereafter on 17-12-1988, but before the service of the notice, the management of HMT Limited, withdrew the earlier dismissal order dated 29-6-1988, passed a fresh order of dismissal and simultaneously filed fresh approval application under section 33(2)(b) of the Industrial Disputes Act, 1947, (Numbered as Approval Application No. NTB-37 of 1988), for approval of this Tribunal to the dismissal order dated 17-12-1988.

2. The management of HMT Limited, has challenged the maintainability of the complaint in view of the withdrawal of the first dismissal order. The complainant/workman (Opponent in the Approval Application) has also challenged the legality of the fresh dismissal order and maintain ability of the fresh approval application. As both these questions are inextricably linked together and both the matters arise out of the same action of the management both these matters were heard together and are decided by this common order, which will operate as an award in the complaint.

3. As mentioned above, the workman was dismissed from service for the mis-conduct of receiving and passing on watch components, by an order dated 29-6-1988. Simultaneously, with the order the management of HMT Ltd. filed an application under section 33(2)(b) of the Industrial Disputes Act, 1947, for approval of this Tribunal to the said action which was taken during the pendency before this Tribunal of Reference No. NTB-1 of 1984. This application was withdrawn on 14-11-1988, on the ground that the amount which was forwarded alongwith the dismissal order fell short of one month's wages payable to the workman under proviso to section 33(2)(b) of Industrial Disputes Act, 1947. The effect of the withdrawal of the approval application was, as held by the Supreme Court in the case Puniab Beverages Pvt. Ltd. Vs. Suresh Chand [1978 II LLJ, p. 1 (Sec.)] was that there was no application under section 33(2)(b) of the Industrial Disputes Act, 1947, for approval of the action taken by the management against the workman. Admittedly, the management did not withdraw the earlier dismissal order, did not pass fresh dismissal order and did not file a fresh application for approval simultaneously with or immediately after, withdrawal of the earlier approval application. As there was no application for approval of the dismissal order dated 29-6-1988, section 33(2)(b) was clearly contravened and hence the workman was justified in invoking section 33-A of the Industrial Disputes Act, 1947, which reads as follows :—

“Where an employer contravenes the provisions of section 33 during the pendency of proceedings (Before a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal), any em-

polyee aggrieved by such contravention, may make a complaint in writing, (in the prescribed manner :—

- (a) to such conciliation officer of Board, and the conciliation officer or Bard shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and
- (b) to such arbitrator, Labour Court, Tribunal or National Tribunal and on receipt of such complaint, the arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly."

It is pertinent to note in this context that till the complaint was filed the management had not taken any steps to withdraw the earlier dismissal order, to pass a fresh dismissal order and to file a fresh approval application under section 33(2)(b) of the Industrial Disputes Act, 1947. The contention of the management that in view of the withdrawal of the earlier dismissal order in respect of which breach of section 33(2)(b) was committed the complaint is not maintainable deserves to be rejected. It is also difficult to accept the contentions that in view of the withdrawal of the first dismissal order and passing of the second, the complaint does not survive. That would not be the effect of withdrawal of the dismissal order. The result of the withdrawal of the first dismissal order would be that the complaint has to be allowed straightway and the workman reinstated in service.

4. As mentioned above, section 33(2)(b) was clearly contravened because there was no application filed by the Company, much less simultaneously for approval of the dismissal order passed on 29-6-1988. The workman therefore was entitled to invoke section 33-A of the Industrial Disputes Act, 1947, and challenge the said dismissal order itself. A complaint under section 33-A has to be adjudicated upon by the Tribunal as if it were a dispute referred to or pending before it, in accordance with the provisions of the Industrial Disputes Act, and it is incumbent on the Tribunal to submit its award to the appropriate Government. By the complaint the workman raised an industrial dispute in respect of his dismissal from service. He was entitled to challenge the dismissal order in the proceeding under section 33-A and this Tribunal was bound to adjudicate upon the said dispute. While doing so this Tribunal was bound to consider whether any proper enquiry was held against the workman; whether the dismissal order was justified and whether the punishment inflicted on the workman was adequate or unduly harsh. Consequently it was incumbent on the management to establish that the dismissal order was passed after fair and proper enquiry, that the management was completely justified in passing the dismissal order and that the punishment inflicted was not disproportiona-

tely harsh. The management could not have forestalled or put an end to this adjudication by withdrawing the dismissal order under challenge and substitute it by a fresh order. The only result of the withdrawal of the first dismissal order during the pendency of complaint under section 33-A, challenging the said order would be that the dismissal order was not justified and deserves to be set aside. The unilateral withdrawal of the earlier dismissal order during the pendency of the complaint in which the said order is under challenge clearly means that the management accepted the position that the dismissal order under challenge was not justified on merits. The result would be that the complaint must be allowed and the dismissal order dated 29-6-1988 must be set aside and the workman reinstated in service with effect from that date. As a logical corollary of this result would be that the fresh dismissal order is rendered void and illegal and the application for approval of this order is not maintainable. It has to be dismissed forthwith.

5. The complaint is allowed, the dismissal order dated 29-6-1988, is set aside and the workman is directed to be reinstated in service with full back wages. The fresh dismissal order dated 17-12-1988, is declared illegal and Approval Application No. NTB-37 of 1988 is dismissed as not maintainable. Award accordingly.

M. S. JAMDAR, Presiding Officer
[No. L-51037/2783-I&E(SS)]
ASHOK SAHU, Dy. Director

नई दिल्ली, 20 दिसम्बर, 1989

का.प्र. 71.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (इ) के उपखण्ड (vi) के उपबंधों के अनुसरण में, भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.प्र. 1615 दिनांक 19 जून, 1989 द्वारा कोयला उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 2 जुलाई, 1989 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (इ) के उपखण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 2 जनवरी, 1990 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[संख्या एफ-11017/13/81-आर. (पाबिली)]

नन्द नाथ, सचिव

New Delhi, the 20th December, 1989

S.O. 71.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 1615 dated the 19th June, 1989 the Coal Industry to be a public utility service for the purposes of the said Act for a period of six months from the 2nd July, 1989;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a further period of six months from the 2nd January, 1990.

[No. S-11017/13/81-I.R. (Policy)]
NAND LAL, Under Secy.

नई दिल्ली, 21 दिसम्बर, 1989

का. आ. 72-—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिण रेलवे, मद्रास के प्रबंधन के सम्बन्धित वनिकारों और उनके बर्तमानों के बीच, प्रत्यक्ष में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-12-89 को प्राप्त हुआ था।

New Delhi, the 22nd December, 1989

S.O. 72,—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Southern Railway, Madras and their workmen, which was received by the Central Government on 11-12-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU, MADRAS.

Friday, the 3rd day of November, 1989

PRESENT :

THIRU K. NATARAJAN, M. A., B. L.,
Industrial Tribunal.

Industrial Tribunal Dispute No. 52 of 1988.

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Dispute Act, 1947 between the workman and the Management of Southern Railway, Madras and two others.)

BETWEEN :

1. Thiru J. Heyath Basha
2. " S. Sekhar
3. " G. Sekhar
4. " K. R. Pushpakaran.
5. " K. Muralidharan
6. " V. Daveedue

7. Thiru S. Subbarayudu
8. " P. Balasubramanian
9. " S. Vayuputniran
10. " D. Vijayakumaran.
11. " P. Ramaswamy
12. " A. Chozhan
13. " P. Sekhar.
14. " M. Basheer
15. " K. Narayanan.
16. " S. Subba
17. " R. Ravi
18. " K. Mohan
19. " R. Ganesan
20. " J. Sundaramurthy
21. " E. Jayapal
22. " K. Babu
23. " M. Prithiviraj
24. " I. K. Lazar
25. " S. Devaraj
26. " G. Krishnamurthy
27. " M. Mohan
28. " P. N. Kumar
29. " M. Henry Babu
30. " K. Rajam
31. " L. Nanda Kumar
32. " S. A. K. Jaelani
33. " D. Vivekanandan.
34. " J. Gopi
35. " S. Chitti Babu.

AND

C/o Thiru T. Fenn Walter, Advocate
No: 161, Thanba Cheety St.,
IInd Floor,
MADRAS—600001.

1. The General Manager,
Southern Railway, Park Town,
Madras.
2. The Controller of Stores, Southern Railway, Ayanavaram,
Madras.
3. The District Controller of Stores,
General Stores Depot,
Southern Railway, Ayanavaram,
Madras.

Reference : Order No. L - 41012/99/87-D.II(B),
dated 2-8-1988 of the Ministry of
Labour, Government of India, New
Delhi.

This dispute coming on for final hearing upon perusing the reference, claim and counter statements and all other material papers on record and upon the hearing the arguments of Tvl. T. Fenn Walter, P. Vijayakumar, K. R. Lazar and Fredrick Cartro, Authorized Representatives for the workman and of Thiru R. Venugopal, Advocate for Management Nos. 1 to 3 and this dispute having stood over all till this day for consideration, this Tribunal made the following.

AWARD

This dispute between the workmen and the management of Southern Railway, Madras under

Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-4(1012/99/37-D.II(B), dated 2-8-1988 of the Ministry of Labour, for adjudication of the following issue :

“Whether there exists employer-employee relationship between the piece-rated workers (list enclosed) and the management of Southern Railway Administration Madras ? If yes, whether the termination of the said workers by the Management of General Manager, Controller of Stores and Distt. Controller of Stores, GSD Southern Railway, Madras is justified ? If not, to what relief the workers concerned are entitled to ?”

This claim petition averments are that the Petitioners therein entered the services of the Respondent as Tailors on various dates as shown in the Annexure & were working as piece rate Tailors continuously. The stitching of uniforms to the Railway servants is a work of a permanent nature. The Petitioners were drawing a sum of Rs. 800 per month. The Petitioners praying about 35 joined the socialist workers union in January 1986 and placed charter of demands on 29-9-86 claiming various benefits for permanency and higher scale of pay. This infuriated the respondent and to the surprise of the Petitioners they were issued with orders of termination on 20-12-86. Their termination is unjust and improper. There is no necessity to terminate the services of the petitioner. The averments that the contract period has expired on 20-12-86 is totally false and baseless. In fact, the Petitioners continued their work under the Respondent. Their termination is contrary to Section 25(F) and 25(N) of the Industrial Disputes Act, since retrenchment compensation has not been paid. They have not been paid wages in lieu of notice. Hence the Respondent may be directed to reinstate the Petitioners in service with back wages, continuity of service and other benefits.

The Respondent in its counter states that the Petitioners were independent contractors under an agreement with the Respondents to stitch a portion of terricotton uniforms on piece rate basis. They are neither railway workmen employed by the railways. There is no relationship of employer-employee and hence the petition is not maintainable. As per the orders of the Railway Board two sets of terricotton uniforms once in two years are supplied to the selected Railway Staff. The nature of work entrusted to these piece-rate contractors is of a seasonal and intermittent work. On 14-9-83 a notice was issued calling for tenders for stitching terricotton uniforms on piece rate basis. It is specifically mentioned the tailors are selected after conducting a trade test and after executing agreements in the prescribed forms. They have to deposit of Rs. 200 as security deposit and that they only paid piece rate wages on the basis of quantum of work turned out. After scrutinising number of applications 36 tailors were found suitable and entered into individual agreements for six months renewable at the option of the railway for a further period. The administration reserves its right to terminate the engagement of the workers without

notice in paragraph 14 of the agreement. Those workers will also be free to stop away the engagement after giving three days notice to the Respondent. Those contractors were supplied with cloths of terricotton garments. They were also supplied with sewing machines, threads, needles and buttons. The average income of piece rate tailor ranges according to the skill roughly between Rs. 200 and Rs. 600 p.m. The centre is kept open between 8 A.M. and 4 P.M. on all week days and the piece rate tailors come at any time and collect the cut garments from Foreman of the Clothing Factory under acknowledgement and return the finished garments. There is no roster for them to work and there is no attendance. They were not given any appointment orders. They are not entitled to any facilities such as medical examination, railway pass and P.T.O. privileges nor subscribe to the Provident Fund. If the stitched garment is not according to the standard, the loss will be recovered from their remuneration. They were not paid any monthly salary of Rs. 800 as alleged in the petition. They were stopped from 20-12-86 as per para 14 of the Agreement, as there was no work. The stoppage of piece rate workers is neither unjust improper and illegal. It is not contrary to the Provisions of 25-F and 25-N of the Act. The piece rate tailors on contract were stopped due to expiry of the contract and they are not entitled to any Notice Pay or retrenchment compensation. They are also not entitled to reinstatement as they were not retrenched but they were stopped due to expiry of contract. Hence the claim is liable to be rejected.

The Petitioners in their reply statement state that the agreement entered into with the management does not in any way go to prove that they were independent contractors. These agreements would only disclose that they were employees of the Respondent and that they were paid on the basis of piece rate. The supply of stitching materials and sewing machines and that they have to for stipulated period and they were controlled by the Respondent, go to prove that they were working under the Respondent as its workmen. The agreements itself establish the relationship of master and servant. It is not necessary that the Petitioners should be recruited by Railway Service Commission. The Respondent cannot take advantage of para 14 of the agreement and cannot unilaterally terminate the services of the Petitioners contrary to statutes since the workers entered into agreements there is no question of issue of any separate appointment orders. The non issue of identical card or passes has nothing to do with the question of relationship between the workers and the Management. Hence the claim is to be allowed.

The points for determination are (i) whether there is employer-employee relationship between the piece rate workers and the Management? (ii) Whether the termination of the petitioners is justified? (iii) To what relief ?

The Petitioner examined W.W. 1 and the Management examined M.W. 1 Exs. W-1 to W-9 and M-1 to M-6 were marked on either side.

W.W. 1 is one of the Petitioners in this case. He would swear that he was working under the Respondent from 15-2-1984. He is to stitch, coat, pants

for the workers of Railways on the machines supplied by the Management. He would also add if there is any defect in stitching, he may be asked to rectify the same. According to him the other petitioners joined the Respondent in 1984 and they were also doing the stitching work. He would concede that they entered into agreement with the Management and also deposited a sum of Rs. 200 each and they were selected after conducting a trade test. His further evidence is since they made a charter of demands, the petitioners were stopped from service from 20-12-86. In the cross-examination he would concede the petitioners were not given the benefits given to other workers. However he would assert that his work was supervised by higher authorities.

As against his evidence the Assistant Controller of Stores was examined as M.W. 1. His version is that as per tender notice (Ex. M-1) published in the Notice Board of all the officers calling for application to stitch uniforms on piece rate basis, the Petitioners were selected as tailors after conducting trade test for the purpose of stitching the uniforms. He would also refer to the agreements. Thereupon according to him, Ex. M-2 series agreements were entered into with the Petitioners after obtaining a deposit amount of Rs. 200 as Security Deposit from the piece rate workers. According to him the place of work will be opened from 8 A.M. to 11.30 A.M. and 12.30 P.M. to 4.30 P.M. wherein the petitioners were entitled to come and work at any time. He would add since in 1986 terricotton cloth was stitched, no supply was made in 1987 and there is no need to supply uniform in 1987. In the cross-examination he would concede that the Railway would supply sewing machine, cloth, etc. But he would assert that there is no attendance register for the Petitioners and the cloths are supplied by the Foreman under acknowledgement and he would receive the same after inspecting the same. He would deny the suggestion that these piece rate workers were paid salaries but only wages. Thus, it is seen from the testimony of both the witnesses the main facts are not disputed namely that the Petitioners were allowed to work under agreement; and they were paid piece rate wages and there was no attendance register, etc. In the light of these contentions it now remains to be seen whether the Petitioners are employees under the Respondent-Management so as to claim the benefits under the I.D. Act.

The learned counsel for the Petitioners would straight away contend that a mere agreement entered into between the Management and the workers would not take away the right under the statute. The fact that even after the period of six months as contemplated under Ex. M-2 series they worked for nearly 2½ years and therefore they are entitled to the benefits of the Industrial Disputes Act. It is also urged by the learned counsel for the Petitioners that the work performed by the Petitioners is for railways and the Railways have the control over the piece rate workers. They are necessary workers and they cannot be terminated orally without complying the provisions of the Industrial Disputes Act. In this connection the learned counsel for the Respondent firstly referred to a decision reported in 1973—II—L.J. page 495

(Supreme Court) (Silver Jubilee Tailoring House Vs. Chief Inspector of Shops and Establishments and another). In that case the Chief Inspector of Shops and Establishments who was a competent authority after hearing the parties came to the conclusion that the provisions of Shops and Establishments Act were applicable to the establishments the appellant therein and employer-employee relationship existed between the appellant and the workers. This was challenged by the appellant in Writ Petition before the High Court. The Writ Petition was dismissed. Subsequently Writ Appeal preferred by the appellant was also dismissed. Thereupon the matter was taken up to Supreme Court and the Supreme Court held after taking into consideration the fact that though the workers were paid on piece rate basis and the workers were not bound to make an application for leave nor is there an obligation to inform their absence to the employer the test to determine is whether the employer and employee relationship existed between the parties is to see whether employer has right to control and supervise the manner of work. The Supreme Court after discussing the various decisions finally came to a conclusion

“that the workers were not obliged to work for the whole day in the shop is not very material and the conclusion of the Chief Inspector of Shops and Establishments that there existed employer and employee relationship was correct.”

So holding dismissed the appeal.

1983—II—L.L.J. page 413 (Supreme Court) (Shining Tailors v. Industrial Tribunal II U.P. and others) was next relied on by the learned counsel for the Petitioner. In that case a preliminary issue was raised whether there has been a relationship of master and servant between the appellant-Shining Tailors and the persons mentioned in the annexures to the order of reference. The Tribunal held that there was no relationship of master and servant mainly on the ground that the workmen were paid piece rate wages. In the appeal the Supreme Court held.

“The right of rejection coupled with the right to refuse work would certainly constitute established master and servant relationship and both the tests are amply satisfied the facts of this case.”

So holding, the appeal was dismissed and the matter was remitted to the Tribunal for fresh disposal.

1978—II—L.L.J. page 397 (Hussainbai, Calicut v. Alath Factory Thozhilali Union, Calicut and others) was also relied on by the learned counsel for the petitioner to show that the Management exercised economic control over its workers which would constitute master and servant relationship. It is seen in this case it has been held that master and servant relationship existed between the employer and employee. The learned counsel for the Petitioners vehemently contended in the present case also the Petitioners who were appointed on the piece rate basis are continuously in service for nearly 2½ years and therefore they would also fall under the category of workmen. But on the other hand the learned counsel

for the Respondent would mainly rely on Ex. M-1 the tender notice calling for piece rate tailors and also the number of clauses contained in the agreements executed by the Petitioners under Ex. M-2 series. It is seen from Ex. M-1 the tender notice calling for piece rate tailors, the selected applicant should have to deposit Rs. 200 as Security Deposit and it is not a recruitment of any kind for Railway Services. As per Ex. M-2 series the contract of agreement, Clause 14 says

"The administration itself has right to terminate the engagement of all piece rate workers without notice or assigning reasons whatsoever and that worker will also be free to stop away this engagement after giving three days notice."

Clause 17 says—

"This agreement shall initially be for a period of six months and the same will be renewable at the option of the Railways for the period of one year."

Much stress is laid on the terms and conditions of Ex. M-2 series by the learned counsel for the Respondent. He urged that the Petitioners were appointed under contract on piece rate wages for a specific period under Ex. M-2 series and therefore they have no right to claim any benefits under Industrial Disputes Act. It is also pointed out the centre will be opened from 8 A.M. to 11.30 A.M. and 12.30 P.M. to 4.30 P.M. and that the petitioners can come at any time and work, that there is no attendance register maintained for them, and that they are not paid salaries but only wages. Of Course, the Petitioners were supplied stitching machines with the clothing materials. However it is the plea of the Respondent that it is open to the Petitioners to come and work at any time without any supervision or control over them except for the fact that the petitioners will be asked to rectify the defect if any contained in the stitched materials. In short, the Management cannot take any disciplinary action against the Petitioners and that they were also not entitled to any benefits such as passes, medical facilities, etc. In other words it is urged that there is no master and servant relationship. The learned counsel for the Respondent relied on a decision reported in 1962—I—L.L.J. page 119 (Shankar Balaji Waje v. State of Maharashtra). In that case the Supreme Court found that—

"There is no agreement or contract of service between the owner of the factory and the concerned persons; the concerned persons was not bound to attend the factory for the work of rolling bidis for any fixed hours of work or for any fixed period. He was free to go to the factory at any time he liked and was free to leave the factory whenever he liked. He could be absent from work on any day he liked. There was no supervision of the work done by the said person in the factory. He was paid at fixed rates on the quantity of bidis turned out and the bidis used to be rejected if they were not up to the standard."

The Supreme Court held "there is no relationship of master and servant between the owner of the factory and the concerned person, who used to roll bidis in the factory."

In 1985—II—L.L.J. (SC) Para 4 at page 3 the (Workmen of FCI v. FCI of India). Supreme Court held,

"The essential condition of a person being a workman within the terms of the definition that he should be employed to do the work in that industry and that there should be, in other words, an employment of his by the employer and that there should be a relationship between the employer and him as between employer and employee or master and servant. Unless a person is thus employed there can be no question of his being a 'workman' within the definition of the term as contained in the Act."

On the basis of this decision it is urged by the learned counsel for the Respondent that this decision squarely applied to this case in as much as the Petitioners are piece rate workers for whom no attendance register was maintained; that they are free to work at any time without any fixed hours; that they are not subject to any control or supervision and that no permission was required for absence. That apart it is also pointed out that in this case specific agreement has been entered into between the petitioners and the Management Under Ex. M-2 series specifying the terms of contract which would include the security deposit of Rs. 200/- paid by each petitioners and that they should be engaged for six months subject to renewable, and that they will not be treated as a railway employee and the management reserves its right to terminate their engagements. According to the learned counsel for the Respondent that even at the time of agreement entered into the Petitioners and the Management, the Petitioners were aware that they had no right of claim as workers much less the benefits under the Industrial Disputes Act. This argument of the learned counsel for the Respondent cannot be brushed aside as having no force when especially the Petitioners have entered into an agreement which cannot be ignored. Of course, the decisions relied on by the learned counsel for the Petitioners in 1973—II—L.L.J. page 495; 1978—II—L.L.J. page 397; 1983—II—LLJ page 413 relate to piece rate workers. But it is to be seen from those decisions the employers in those cases are individuals whereas the employer in this case is the Government which has its own rules and regulations to recruit for any post. At this stage, it is pointed out by the learned counsel for the Respondent that there is no initial recruitment for tailors in the Railway service and tailors are appointed only on promotion from Khalasi. For all these reasons, there is no employer and employee relationship between the Petitioners and the Respondent-Management. Consequently there is no violation of Provision of 25-F and 25-N of the Industrial Disputes Act by reason of termination of Petitioners. Hence these points are found against the Petitioners.

POINT (iii) : In the result the termination of the Petitioners by the Respondent is justified and the

Petitioners are not entitled to any relief. An award is passed accordingly. No costs.

Dated, this the 3rd day of November, 1989.

K. NATARAJAN, Industrial Tribunal.
[No. L-41012/99/87-D.II(B)]
HARI SINGH, Desk Officer.

WITNESS EXAMINED

For Workmen :

W.W.1.—Thiru J. Hayath Basha

For Management :

M.W.1.—Thiru N. Rangasamy

DOCUMENTS MARKED

For workmen :

Ex. W-1|18-1-84—Letter from General Stores Depot, Madras-23 to Thiru S. Vayuputhiran. (Xerox copy).

W-2|4-2-84—Letter from General Stores Depot, Parambur to Thiru S. Vayuputhiran calling for agreement.

W-3|25-8-85—Letter from Socialist Worker's Union, Madras-1 to the General Manager, Southern Railway, Park Town.

W-4|11-11-86—Letter regarding charter of demands raised by Socialist Workers Union, Madras filed before the Regional Commissioner of Labour (Conciliation) (Central), Madras-6.

W-5|17-12-86—Termination order issued to Thiru S. Vayuputhiran.

W-6|9-1-87—Advocate Notice to the Management to reinstate the workmen.

W-7|27-1-87—Reply by Management to W-6.

W-8|25-9-87—High Court's Order in W.P. No. 7965/87 (Certified copy)

W-9|16-6-88—Xerox copy of Order of Dy. Controller of Stores II, Southern Railway, Madras-23 regarding alteration of uniforms

For Management :

Ex. M-1|14-9-83—Tender Notice calling for piece rate Tailors (copy).

M-2|series 31-1-1984, 16-2-1984, 2-2-1984, 3-5-1984, 8-11-1984, 26-10-1984, 12-6-86, 18-6-86 and 23-7-86—True copies of Contract Agreements executed by Piece Rate Tailors with Railway Administration.

M-3|1-3-84—True extract of Piece Rates prescribed for stitching terricotton cut garments.

M-4|series—Extracts for Payments made to piece rate tailors for nine periods, namely 18-6-86, 2-7-86, 25-7-86, 13-8-86, 10-9-86, 13-9-86, 1-10-86, 18-10-86 and 24-10-86.

M-5|series—Xerox copies of Payment Register showing payments made to piece rate tailors with their acknowledgement for 2 months.

M-6|17-12-86—Termination of engagement of piece rate tailors (copy).

